

MR. RYLAND'S CASE.

DOCUMENTS

RELATIVE TO

MR. RYLAND'S CLAIM ON GOVERNMENT,

PRECEDED BY

EXTRACTS FROM THE SECRETARY OF STATE'S INSTRUCTIONS TO THE GOVERNORS OF CANADA.

"Præsertim ut nunc sunt mores, adeo res reddit,
Si quisquis reddit, magna habenda est gratia."

Montreal :

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MR. RYLAND'S CASE.

Extracts from a Despatch addressed by Lord Glenelg to Sir Francis Bond Head, and communicated to the Legislature of Upper Canada, by Message bearing date the 30th January, 1836.

“The principles of the Government in the two Sister Provinces must I am well aware be in every material respect the same.

“*In case of the immediate abolition of any office not required for the efficient discharge of the public service, you will stipulate for such a compensation to the present holders as the disappointment of their reasonable expectations may entitle them to receive.*

* * * * *

“In dealing with existing interests, the local Legislature will, I doubt not, be well disposed to adopt the rules which have been uniformly taken by Parliament for the guidance of their discretion in similar cases. The saving of public money which would arise from the unexpected reduction of official incomes would not only subject numerous families to extreme distress, but, by *impairing general confidence in the public credit*, would weaken the foundations on which all proprietary right must ultimately repose.

* * * * *

Extract from Lord Grey's Despatch relative to Sir Rupert George.

“Now, there is scarcely any part of the system of Government in the country, which I consider of greater value than that which, though not enforced by any written law, but deriving its authority from

usage and public opinion, makes the tenure of the majority of offices in the public service to depend upon good behaviour.

* * * * *

“ In fact, though the legal tenure, ‘ during good behaviour,’ is rare, tenure, during good behaviour, in the popular sense of the term, may be said to be the general rule of our public service.

* * * * *

“ No person should, without such permission, be deprived of any office (except upon the ground of unfitness or misconduct.)”

* * * * *

DURHAM.

Great Seal. VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith.

To all to whom these Presents shall come, or whom the same may concern, *Greeting* :

Commission appointing George H. Ryland to be Clerk of the Executive Council, in the room and stead of the Honorable Witsius Ryland, deceased.

FIAT.
Recorded in the Register's Office of the Records at Quebec the 13th day of October in the year 1836, in the fifteenth Register of Letters Patent and Commissions.

D. DALY,
Reg.

KNOW YE, that reposing trust and confidence in the loyalty, integrity and ability of our beloved and faithful GEORGE HERMAN RYLAND, of our City of Quebec, Esquire, We, of Our special grace, certain knowledge and mere motion, have constituted and appointed, and by these Presents do constitute and appoint the said GEORGE HERMAN RYLAND to be CLERK of Our EXECUTIVE COUNCIL of and for Our PROVINCE OF LOWER CANADA, in the room and stead of the Honorable HERMAN WITSIUS RYLAND, deceased ; to have, hold, exercise and enjoy the said Office of Clerk of Our Executive Council as aforesaid, together with *all and singular the rights and privileges, fees, profits, emoluments and advantages* to the said Office appertaining, which of right ought to belong to the same, unto him the said George Herman Ryland, for and during Our Royal Pleasure, and the residence of the said George Herman Ryland in Our said Province of Lower Canada.

In testimony whereof, We have caused these Our Letters to be made Patent, and the Great Seal of Our said Province of Lower Canada to be hereunto affixed.

WITNESS, Our Right Trusty and Right Well-Beloved JOHN GEORGE, EARL OF DURHAM, Viscount Lambton, &c., &c., Knight Grand Cross of the Most Honorable Military Order of the Bath, one of Our Most Honorable Privy Council, and Governor General, Vice-Admiral and Captain General of all Our Provinces within and adjacent to the Continent of North America, &c., &c., &c.,

At Our Castle of St. Lewis, in our City of Quebec, in our said Province of Lower Canada, the thirteenth day of October, in the year of Our Lord one thousand eight hundred and thirty-eight, and in the second year of Our Reign.

D. DALY,
Secretary.

(Copy.)

No. 53.

DOWNING STREET, 3rd July, 1839.

SIR,

I have the honor to acknowledge the receipt of your Despatch of the eighth ultimo, No. 84, enclosing an application from Mr. Ryland for the issue of the usual Warrant under the Royal Sign Manual appointing him Clerk of the Executive Council of Lower Canada. Mr. Ryland's predecessor had no Mandamus. In reply, I beg to inform you that Mr. Ryland's nomination to this Office was not reported to my Predecessor by the Earl of Durham,* and consequently it was impossible for Lord Glenelg to submit his name to the Queen for that appointment. If however you should

* This Despatch, it must be borne in mind, was written under a misconception of the true nature of Mr. Ryland's appointment. It was not necessary that Lord Durham should report Mr. Ryland's appointment, inasmuch as the Secretary of State had previously consented, in 1836, to the appointment, subject merely to the approval of the Governor General. See Lord Glenelg's despatch on the subject, answered by Lord Gosford on 9th August, 1836.

be of opinion that the selection was a proper one, and ought to be confirmed, I will give the necessary directions for preparing the usual Warrant. But in that case you will apprize Mr. Ryland that if the two Provinces of Upper and Lower Canada should be hereafter united, and it should be found in consequence impossible* to continue his services, he would not be entitled to any retiring allowance on account of his present appointment.

I have, &c.,

(Signed)

NORMANBY.

Lieutenant General,

SIR JOHN COLBORNE, G. C. B.

&c. &c., &c

VICTORIA REGINA.

TRUSTY AND WELL-BELOVED, We Greet you Well ; Whereas We have taken into Our Royal consideration the loyalty, integrity, and ability of Our trusty and well-beloved George Herman Ryland, Esquire, We have thought fit hereby to authorize and require you forthwith to cause Letters Patent to be passed under the Seal of Our Province of Lower Canada in America, constituting and appointing him the said George Herman Ryland, Clerk of the Executive Council of Our said Province. To have, hold, exercise and enjoy the said Office and Place during Our pleasure, with all the rights, fees, profits, privileges and advantages thereunto belonging or appertaining. And you are to cause to be inserted in the said Letters Patent a clause or proviso obliging him the said George Herman Ryland to actual residence within Our said Province, and to execute the said Office in his own person, except in case of sickness or other incapacity, and all such other clauses and provisos as are requisite and necessary in this behalf: and for so doing this shall be your Warrant. Given at Our Court at Wind-

* It was not found impossible.

sor, the 26th day of August 1839, in the third year of Our Reign.

By Her Majesty's Command,

NORMANBY.

GEORGE HERMAN RYLAND, Esquire,
to be Clerk of the Executive Council,
Lower Canada.

EXECUTIVE COUNCIL OFFICE,
Kingston, 11th June, 1841.

SIR,

With reference to our conversation the other day, relative to the fees of the Clerk of the Executive Council, I have to inform you that in consequence of your suggestion, that the demanding of fees from the Upper Canadians, who have not been accustomed to pay them, might occasion complaints, which, at this moment, would be embarrassing to Government, I immediately gave directions that no fees should from that period be exacted, either on money warrants, or for business done at the instance of individuals having claims on Government. In ceasing, however, to demand these rights of office, I wish to be clearly understood that it is merely for the purpose of facilitating public business, and is not to be construed into an abandonment on my part of a right to exact these emoluments, or to receive indemnification from Government for the loss thereof.

I have the honor to be,

Sir,

&c., &c., &c.,

(Signed) G. H. RYLAND.

THE HON. S. B. HARRISON,
&c., &c., &c.

Memorandum communicated to His Excellency the Governor General on the 22nd August, 1841.

The undersigned stands in a different position from any other Public Officer in the Province, having peculiar claims upon Government, which have been acknowledged by different Governors from the Duke of Rich-

mond downwards, and by succeeding Secretaries of State, under both Tory and Whig Administrations, and it was in reward of services that the situation of Registrar and Clerk of the Executive Council was specially conferred on him.

This Office is worth per annum £1030.

It is an Office ranking (as will appear by the sub-joined Letter from Sir James Craig to Mr. Secretary Peel, in answer to a suggestion from the Earl of Liverpool,) high among the Public Departments of Government; no security is required of the holder, nor does any pecuniary responsibility attach to the Office.

It is the express desire of the Secretary of State that the undersigned shall continue to fill it, or that he shall receive an equivalent for the loss thereof.

His Excellency's measures requiring a change in the construction of the Council Office, by which a great part of the responsibility and duty of the Registrar and Clerk will devolve on the President, it has been suggested that the undersigned shall in lieu of the Office he now holds be appointed to the Registrarship of Quebec, an Office of less respectability, without fixed salary, and to depend entirely on fees, which as established by the Ordinance 4 Vict. cap. 30, are particularly small; the duties will be onerous in the extreme, the responsibility great, and the security required unprecedented. (*Vide Sec. 8.*)

The undersigned has taken considerable pains to ascertain the probable value of this new Office, and from a source, Prothonotaries' Quebec, on which he can perfectly rely, he has gathered the following *Facts*, viz :

That owing to the heavy general enregistration of old deeds and particularly that which under the 2nd, 4th and 52nd sections of the Ordinance 4 Vict. cap. 30, will be required on the part of the Crown, the Religious Communities and the holders of Seigniories, the amount of the 1st year's enregistration may infinitely exceed and perhaps more than double the annual Income now enjoyed by the Registrar and Clerk of the Council, whilst in succeeding years the Office could not yield more than from £600 to £700 per annum.

Presuming, however, that after the first year it averaged per annum..... £800 0 0

The annual expenses of the establishment (which it may here be remarked would increase in proportion to the increase of work,) could not be estimated at a lower rate than as follows :

A confidential person as

Deputy, per annum,	£250	0	0
Clerks or Writers	200	0	0
Rent of house for Offices,	90	0	0
Stationery, Fuel, Office			
Servant, Printing and			
contingencies, ...	120	0	0

Total expense, ...	£660	0	0
(Nothing said of Office furniture.)	660	0	0

Would leave a balance for the remuneration of Registrar, of.....	£140	0	0
--	------	---	---

The Income derived from the Office of the Clerk of the Executive Council, as before stated, amounts to £1030 0 0

Deduct balance as above forming actual Income of Registrar,..... 140 0 0

Would (setting aside the first year's emolument) leave a diminution of Income of 890 0 0

By the 4th and 5th Will. IV., the undersigned would be entitled to a retiring allowance of one-half of his official income, and but for the duty he owes a young family, he might be tempted to avail himself of this enactment.

Should it, however, be the Governor General's pleasure to confer on the undersigned, in lieu of his present office, that of Registrar of the District of Quebec, he trusts it will be accompanied with such pecuniary remuneration as, under the circumstances of the case, His Excellency may think the undersigned in fairness and equity justly entitled to receive, taking into con-

sideration the comparative value of the two appointments, together with the amount of responsibility and degree of labour attached to each, or a guarantee of such annual income as, with the possible overplus derivable from the 1st year's enregistration under the Ordinance 4 Vict. cap. 30, shall secure him an equivalent for the full amount of the income now enjoyed by him as Registrar and Clerk of the Executive Council, and which he now consents, in order to meet the views of His Excellency, to relinquish.

(Signed,) G. H. RYLAND.

The Governor General having, on the 22nd August, 1841, been pleased to acquiesce in the justice of the above statement, Mr. Ryland was desired to put himself in communication with Mr. Secretary Murdoch, to whom His Excellency declared he would give the necessary instructions to meet Mr. Ryland's views; the latter accordingly addressed a note on the subject to the Chief Secretary, and on the 25th the following official letter from that gentleman was put into Mr. Ryland's hands, who, trusting implicitly in the faith of Government, immediately left Kingston for Quebec, having on leave-taking, received instructions from His Excellency to take instant steps for the formation of an efficient establishment, to carry out the provisions of the Registry Ordinance on the 1st of October following.

Kingston, 23rd August, 1841.

SIR,

I am commanded by the Governor General to acknowledge the receipt of your letter of this day's date, on the subject of your claim to be *indemnified for certain fees given up by you since the Union*, and your future appointment to be Registrar for the District of Quebec.

In reply I am to inform you that as it appears that the average of your fees during the last three years, has been £397 stg., and as you have discontinued the receipt of those fees for about six months, His Excellency is pleased to grant you as an indemnity one moiety of that sum, and has directed Major Campbell to draw in your favor on the Commissary General for that

amount and your travelling expenses, making in the whole the sum of £252 7s. In regard to the Registrarship of Quebec, His Excellency will be prepared to appoint you to that situation whenever *the Ordinance under which it is created* shall be brought into operation, and in the interval you will continue to receive the salary attached to the office of Clerk of the Council. But as it is possible that the emoluments of the Registrarship of Quebec may fall very far below those of your present office, His Excellency is willing to *guarantee* to you an income equal to the sum to which you would be entitled as a retiring allowance were your employment in the public service *altogether discontinued*. Assuming your income on an average of the last three years to be £1030 currency and your length of service as a public Officer to be 24 years, you would be entitled under the scale established by the 4 & 5 Wm. IV., c. 24, to a retirement equal to one half your emoluments, or £515 currency. That amount therefore His Excellency is willing to guarantee to you by making up your emoluments from the employment in the public service which may hereafter be assigned to you, to that extent, should they be insufficient of themselves to do so—should they exceed it, you will of course be entitled to the excess.

I have, &c.,
(Signed,) T. W. C. MURDOCH,
Chief Secretary.

Certified to be true copies,
RAWSON W. RAWSON,
Chief Secretary.

26th November, 1842.

Mark, "the Ordinance under which it is created" and which it was presumed would have yielded Mr. Ryland a large sum of money sufficient to have recompensed him for the loss of the other half of his income, and in fact, on reference to Mr. Cremazie's Report, it is evident that Mr. Ryland would have received £25,000 during the year.

It is clear that he was entitled to have it discontinued, and to retire on pension. By the the Report of Council, however, of September, 1847, it will be seen that the Ministry conceived that Mr. Ryland, as Registrar of Montreal, was compelled to perform labour not called for in his former Office, *and at a less rate of remuneration than the amount he was declared entitled to receive per annum*, should his services be *altogether discontinued*. This is reasoning under Responsible Government.

Copy.—No. 4.

Private.

MOUNT LILAC,
3rd September, 1841.

MY DEAR MURDOCH,

Enclosed you have my answer to your official of the 24th ultimo. In regard to the compensation for loss of fees, I am, as I told you before I left Kingston, dissatisfied, and since my return here, I have still greater reason to be so, as I find as soon as it was known that the fee system in my office was done away with, all the old extracts which for two or three years have been prepared, but neglected by the parties interested to be taken up, were immediately called for. I know not whether Campbell has sent down the order on the Commissariat for the amount awarded me, but whether he has or not, as I have not yet received it, I consider the question still open for revisal, and I trust that, from a sense of justice, you will not hesitate again to bring this point before His Excellency, that the award may be increased.

I ask nothing unreasonable: the sum to which I am entitled under my tariff amounts to upwards of £700—let the period of commutation only be increased six months, giving me one year's fees, and I shall take it as a discharge in full for my claims on this particular head, thereby resigning £300, besides the £50 a month extra allowance, to which there can be no doubt that I was entitled. Should you have any objection to trouble His Lordship again on this subject, which I can scarcely think possible, let me know by return of post, and I will address myself direct to His Excellency.

I arrived here late on Saturday night, having been detained on the way down by the Lord Sydenham's running aground near Sorel, where we were obliged to remain till the Canada came to our relief.

Ever truly yours,

(Signed,) G. H. RYLAND.

MOUNT LILAC,
Beauport, 3rd September, 1841.

SIR,

I have the honor to acknowledge the receipt of your official letter of the 24th ultimo (put into my hands as I was going on board the steamer,) relative to my appointment as Registrar of the District of Quebec, and to my claim for indemnification for the loss of certain fees amounting to about £700, given up by me since the Union, at the request of the Executive.

In regard to the Registrarship of Quebec, I have to request that you will convey to His Excellency my acceptance of this Office, but with the *perfect understanding* that in the event of its not proving nearly equal in value to my appointment of Registrar and Clerk of the Executive Council, the sum guaranteed *is not to be considered as compensation in full either for the loss of that office or of my claim upon Government.*

I have, &c.,
(Signed,) G. H. RYLAND.

MR. SECRETARY MURDOCH,
&c., &c., &c.

Subsequent to the death of the late Governor General, Lord Sydenham, the following Circular was addressed by Mr. Secretary East, to Mr. Ryland :

(Circular.)

SECRETARY'S OFFICE,
Kingston, 8th December, 1841.

SIR,

I am commanded by the Administrator of the Government to offer for your acceptance the Registrarship of the District of Quebec.

In so doing, however, I am to add that His Excellency is desirous you should perfectly understand that this appointment is offered you, subject to the approval of the Governor General, and that if, on Sir Charles Bagot's arrival, he should see fit to revoke it in favor of any other party, it is not to be held to give you any

claim whatever upon the Government, for other official employment or indemnification.

I have the honor to be, Sir,

Your obedient servant,

D. DALY,
Secretary.

G. H. RYLAND, Esq.,
&c., &c., &c.,
Quebec.

No. 5.

MOUNT LILAC,
Quebec, 17th December, 1841.

SIR,

I have the honour to acknowledge the receipt of your official communication of the 8th instant, wherein you inform me "that you are commanded by the Administrator of the Government to offer for my acceptance the Registrarship of the District of Quebec."

Having *already stated to His Excellency the late Governor General*, my willingness, under *certain conditions, to accept the office in question*, I have now to request you will convey to His Excellency the Administrator of the Government my readiness to enter upon the duties of the Registrarship of the District of Quebec, whenever His Excellency may think proper to put the Ordinance 4 Vict. cap. 30, into force.

In regard to that part of your letter wherein I am given to understand that the appointment in question is to be considered as subject to the approval of Sir Charles Bagot, I have merely to observe that my claims on Government being of a peculiar nature, *acknowledged by Her Majesty's Ministers at home as well as by the Local Government here*, and Her Majesty having been pleased by Her Mandamus appointing me Clerk of the Executive Council of Lower Canada specially to acknowledge my public services, my position, I respectfully submit, does not require to be strengthened by any adventitious circumstance like the present appointment, and as I should be most sorry to take any undue advantage of the kindly feeling either of the late Governor General or of the present Administrator

of the Government towards me, I shall of course consider myself bound, in case Sir Charles Bagot does not approve of my appointment as Registrar of the District of Quebec, to return to the Office which I now hold as Registrar and *Clerk of the Executive Council of Canada*, until such time as another Office of equal respectability and emolument shall be provided for me.

I have, &c.,

(Signed,) G. H. RYLAND.

HON. D. DALY,
&c., &c., &c.

Mr. Ryland, as will be seen by the above, renewed the conditions under which he consented to accept the Registrarship of Quebec, and as the following, in answer to Mr. Ryland's conditional acceptance, is silent on the matter, it must be taken for granted that Sir Richard Jackson, as well as Sir Charles Bagot, confirmed the contract, from which otherwise they would have dissented.

SECRETARY'S OFFICE,
Kingston, 23rd December, 1841.

SIR,

In reply to your letter, accepting the office of Registrar for the District of Quebec, I am commanded by the Administrator of the Government, to desire that you will lose no time in placing yourself in communication with the Honorable Solicitor General, on the subject of the bonds you are required by law to enter into for the faithful discharge of its duties.

I have the honor to be,

Sir,

Your most obedient servant,

(Signed,) D. DALY,
Secretary.

G. H. RYLAND, Esq.,
&c., &c., &c.

(Copy.)

CHIEF SECRETARY'S OFFICE,
*Kingston, 8th January, 1842.**

SIR,

I am commanded by the Administrator of the Government to acknowledge the receipt of your letter of the 28th ultimo, requesting that a Warrant may be issued for your salary as Clerk of the Executive Council, up to the 31st ultimo, together with a compensation for the loss of your fees to that date, at the rate sanctioned by the late Governor General.

In reply I am to inform you that previously to the receipt of your letter a Warrant had been signed for your salary. In regard to your compensation for loss of fees His Excellency observes that according to the strict letter of the agreement made with you in August last, such compensation would scarcely appear to have been contemplated, but as you had at that time every reason to believe that the Registry Ordinance would come into operation early in the ensuing month, and as you consequently incurred expenses on the faith of Lord Sydenham's promises to you, which you would otherwise have postponed, Sir R. Jackson considers that you have an equitable claim to compensation. His Excellency has accordingly authorised the Commissary General to pay to you the sum of £146 14s. 8d. currency, being the amount to which you would be entitled for the four months from 1st September to the 1st instant, at the rate agreed upon by Lord Sydenham.

I have, &c.,

T. W. C. MURDOCH,
Chief Secretary.

(The living witness to the transaction and the intention of the parties.)

G. H. RYLAND, Esq.

* This letter will prove that Mr. Ryland was still considered (and treated with) as Clerk of the Council of Canada nearly a year after the Union of the Provinces.

The "agreement" acted upon by the Representative of the Crown, what Ministry were in then? The same who through their official organ, on the 7th April, 1843, acknowledged Mr. Ryland's claims. See pages 2 and 5.

Extract of a letter from Captain Bagot, Private Secretary to the Governor General, dated Alwington House, Kingston, April 20th, 1843.

“MY DEAR SIR,

“I beg to acknowledge the receipt of your letter of the 13th instant, which I only did yesterday, since which time I have brought the subject and wish contained in your letter before Sir Charles Bagot, and who has given it his best consideration. He desires me to say, that with every possible wish to be of service to you, he does not think he can, or would it be proper for him, in his present position, to interfere in your case, with the Home Government. HE FULLY admitted your claim when it came before him, and admitted the hardship of your position, and it has afforded him much pleasure the knowing that Sir Charles Metcalfe entertains the same views, whom he feels satisfied will deal with it *in the most favorable way towards* yourself whenever it is in his *power*.

“I know Daly is about to write to you either to-day or to-morrow, and to whom Sir Charles talked much about yourself.

“Believe me, &c.,

(Signed,)

“F. BAGOT.

“G. H. RYLAND, Esq.,

“Quebec.”

No. 2.

Quebec, Tuesday, 18th January, 1843.

MY DEAR SIR,

Our mutual friend Ryland is just leaving this place for the purpose of representing his present position as a Public Officer, and of enforcing his claims upon the Government. I have read the documents which he holds, and I am fully *convinced that the Government cannot shirk this claim. If there be honour or honesty in the conduct of public affairs, Ryland's claim must be recognized.* Of course you know as well at least as I do, and much better too, as being an ancient chiseller, that it is out of the power of the present Government, or of any future Responsibles, to grant a pecuniary

indemnity, pension, &c.; I have therefore thought of managing matters *more Davidsoni*. Give him the refusal of all the offices that become vacant until you satisfy his demand; for instance, that Puppy Coffin may shortly so put his foot into it that he may be dismissed; Ryland would be an admirable successor, and I am sure would be the last man to write in the newspapers against us. You have now my views upon this matter; I am *convinced of the justice of the claim*, and you know well that it requires *a strong case to convince me*.

If the matter be talked over, you can state my opinion upon it, and read this letter to all the brother chisellers, with the assurance that this is no chisel.

Your faithfully, &c.,
(Signed,) T. C. AYLWIN,
Solicitor General.

D. DALY, Esq.,
Provincial Secretary.

Within three months after this letter was written, on the 7th April following, Mr. Ryland received an *official* acknowledgment of his claim from the Government, of which Mr. Aylwin was a member, and of which four of the present Ministry were also members, viz: *Messrs. Lafontaine, Baldwin, Sullivan and Hincks.*

No. 6.

Account of Receipts and Disbursements during the year 1842.

Disbursements.

Rent of house for Offices, to 31st May,			
1842,.....	£37	10	0
Do do 1st Jan.,			
1843, at £85 per annum, ...	56	13	0
Salary of Deputy and two Clerks,.....	512	10	0
Extra Writers, { Mr. Gordon, £8 0 0			
{ Mr. Carter, 3 6 8			
	11	6	8
Office Furniture,.....	27	18	0
Miller, for clearing snow from front of			
Office, ...	3	0	0
Office Keeper,.....	40	0	0
Office Counter, and Painting do.,.....	4	10	0

Bedard, for moving Counter,.....	0	12	6
Fire Wood, winter 1841 and 1842, ...	8	0	0
Do present winter, ...	12	4	8
Stoves,.....	9	0	0
Coals, and carting do.,.....	5	4	0
Tinsmith's Accounts for Pipes, &c.,...	5	0	0
Stationery, Printing, &c.,.....	66	15	6
Clock, ...	12	0	0
	£812	4	4

Receipts.

1821 Memorials and 3 Documents at
length, enregistered—amounting to 530 8 3½

Excess of disbursements over the
amount of fees received,..... £281 16 0½

In addition to the above may be added the sums of £46 3s. and £46.—£92 3s. paid on insurance to the Eagle Life Assurance Company of London, and handed over as a collateral security to those gentlemen who had entered into recognizances in my favour, and which, be it remembered, is not like a person being security under ordinary circumstances for the honesty of an officer holding a pecuniary trust, but here the securities of the Registrar are answerable for the faults of the Deputy and Clerks as well as of the Registrar himself, and though it may be said that the family of the Registrar will benefit by this forced insurance at his death, still it must be borne in mind that they are also held answerable for three years *after his death* for all errors and faults in his office whilst living.

(Signed,) G. H. RYLAND.

MOUNT LILAC,
29th March, 1843.

SIR,

I regret to be under the necessity, so immediately on your arrival in this Province, of troubling you with matters of a personal nature, but as the case which I am about to bring under Your Excellency's notice is one not only affecting individual interest, but in the

settlement of which the faith and honor of the British Crown are concerned, further apology for my intrusion at this early stage of Your Excellency's administration, will, I trust, be considered unnecessary.

The case to which I refer, is one relating to claims on Government, consequent on an arrangement entered into between Lord Sydenham and myself, by which I consented, on public grounds, to give up a lucrative patent appointment, expressly conferred on me by my Sovereign, in reward of public services, on receiving a guarantee of a certain annual income, and the full benefit, as Registrar of Quebec, which could be derived under the Ordinance 4th Victoria, cap. 30.

On the 7th December last, I addressed a letter on the subject to His Excellency Sir Charles Bagot, pointing out the changed position in which I was placed with regard to the Crown, by the alteration in the Act during the last Session of the Provincial Parliament, which cut off all the remunerating clauses before the expiration of the period during which it was covenanted by Her Majesty's Representative that I should be entitled to the excess of income, which was anticipated from the working of the Ordinance, as put in force, and calling upon the Executive to grant such adequate remuneration as, under the peculiar circumstances of the case, I considered myself entitled to receive.

This letter, together with other papers relative to the case, was referred by Sir Charles to the Executive Council, but His Excellency's severe illness has, I have been officially informed, prevented a decision being had. In the mean time, instead of being rewarded for my ready compliance with the views of Government, instead of receiving that prompt discharge of an agreement, which in private life would have been considered binding between man and man, I am placed in a situation of extreme embarrassment and pecuniary distress.

On my appointment as Registrar of Quebec I was obliged to give securities in the sum of five thousand pounds; these gentlemen are still held responsible with myself for the due discharge of the duties of the office,

and for the consequences of any errors committed by the clerks ; and I am obliged to furnish money out of my private means to provide an office and carry on a public department, the receipts of which *do not, and cannot, under the present Tariff, and minute accuracy required by the forms of enregistration, meet the current and necessary expenses of the office, much less afford an adequate remuneration to the officer at the head of the department.*

Had the first year (dating from the period when the Registry Ordinance was put in force) been allowed to expire without any alteration being made in the law, I should have considered myself bound to abide by the result, and indeed could not then have called on Government for further remuneration than the annual income named in Mr. Secretary Murdoch's letter of the 22nd August, 1841 ; but inasmuch as the alterations in the law were introduced by the Executive at the very moment when the public were preparing for a compliance with its provisions, by which the anticipated remuneration would have been secured to me, the power which interfered to my prejudice is, *I maintain, bound to secure the compensation*, particularly when it is borne in mind, that the Crown, with whom I had treated, was, by the operation of these very changes, saved a large amount of registration.

Considering, therefore, the urgency of the case, the outlay and heavy loss of official income to which my *reliance on the faith of Government* has subjected me, I confidently appeal to Your Excellency's sense of justice for speedy relief from a humiliating position, in which no Officer of the Crown should be placed, for a liquidation, *in full*, of my claims for the past, and security of income for the future.

Your Excellency will perceive, on reference to the memorandum submitted by me to Lord Sydenham, and on which the agreement was based, that the arrangement was one consequent on the Union. That it formed, in fact, a part of that great measure, enabling him to raise the salary of the Chairman of the Executive Council from £100 to £1,100 sterling, per annum, and to complete other arrangements, by which His Lordship

proposed to carry out the scheme of the new form of Government granted to Canada. The very nature of the position in which he was placed, as the Representative of his Sovereign at the particular juncture, rendered it absolutely necessary that he should be clothed with certain discretionary powers, of which the naming to office, and arrangement in regard to income consequent thereto, was one, and as, in the exercise of these powers, a pledge, on the part of the Crown, was, by that nobleman, given to me, it matters not whether the Administration of the affairs of this Province are now vested in the Executive Council, as a Responsible Government, or in the Representative of the Crown; that pledge, I respectfully conceive, is as binding on the Government of the day as any other arrangement or nomination by which any other public functionary now holds his office.

I have the honor to be,

Sir,

With great respect,

Your Excellency's

Most obedient humble servant,

G. H. RYLAND.

His Excellency,

The Right Honorable

SIR CHARLES METCALFE, G. C. B.,

Governor General,

&c., &c., &c.

P. S.—I take the liberty of enclosing a list of the documents referred to the Council, of which I respectfully solicit Your Excellency's perusal.

SECRETARY'S OFFICE, (East,)

Kingston, 7th April, 1843.

SIR,

I have the honor, by command of the Governor General, to acknowledge the receipt of your letter of the 29th ultimo, and to inform you, in reply, that His Excellency acknowledges* *your claim to the fulfil-*

* These are significant terms—not susceptible of two constructions.

ment of Lord Sydenham's guarantee, but has no means at his disposal of performing its stipulations, *and is advised that* a reference to *the Provincial Parliament* * would be unsuccessful. Nothing, therefore, is in his power but to keep your claim in view, and to consider it as occasions may arise for benefitting you, consistently with the public interests.

I have the honor to be,

Sir,

Your most obedient servant,

(Signed,)

D. DALY,

Secretary.

G. H. RYLAND, Esq.,

&c., &c., &c.

Quebec, 18th April, 1843.

SIR,

Having received a letter from the Provincial Secretary informing me that Your Excellency "acknowledges my claim to the fulfilment of Lord Sydenham's guarantee, but that you have no means at your disposal of performing its stipulations, and that you are advised that a reference to the Provincial Parliament would be unsuccessful," I am compelled, by a sense

* A subsequent appeal to that body was followed by the Joint Address (unanimously agreed to) of the two branches of the Legislature, to the *Queen*, acknowledging Mr. Ryland's claims, and praying Her Majesty to direct steps to be taken for the liquidation thereof. Lord Grey in reply directs payments accordingly, of all losses consequent on the surrender by Mr. Ryland of his office, in 1841. This Despatch is dated 18th July, 1846, and yet in April, 1848, Mr. Ryland is still unrelieved.

These are solemn facts not lightly to be set aside or trifled with.

It has been said that one of the Ministry who came into office when the Clerkship of the Council was filled up, stated that he and his friends had nothing to do with the transaction, and that they did not want to have the filling up of the place, though they did put one of *their party in it*, whom they were afterwards anxious to see out of it. That may be, but if a man *receives a horse knowing it to be stolen*, does he not become *particeps criminis*? and though the animal may turn out useless and perfectly unfitted to his purpose, can he plead this in mitigation of punishment or in palliation of his crime? I should think not. So in the present case, the Government have had and disposed of the income, Mr. Ryland gave up, and are bound under any circumstances, to *refund*.

of duty to my family, to bring the matter under Your Excellency's further consideration, and I trust that your Excellency will receive it as an excuse, if not a justification for my addressing myself directly to Your Excellency, that my claim, as I view it, is one for the satisfactory adjustment of which I am not bound to look ultimately to any merely Provincial authority.

My object is to lay before Your Excellency several alternatives, any one of which I conceive that I am justified by the pledge given to me by Government, in expecting that the Government will adopt; I shall state and ask nothing but what appears to me to be plainly consistent with and enjoined by those universal and unchangeable principles of rectitude and good faith, the obligation of which is I believe as binding upon a Government as between man and man, and I am sure that I shall need no excuse with Your Excellency, of having sustained from Government an injury that brings me to the verge of ruin. I point out the mode of redress in the briefest, simplest and most forcible terms, consistent with the respect I owe and feel towards Your Excellency.

I beg permission to premise a few observations upon an expression in the Provincial Secretary's letter, in which the guarantee given to me is described as being "Lord Sydenham's guarantee."

I respectfully submit that Lord Sydenham acted in the matter as something more than the mere Administrator of Provincial Authority; that I had a right to look upon him as invested with extensive powers to carry through a great measure of the national Senate and Government, and that he acted as, and was, the Representative of the Sovereign whom I also served; that therefore, or even viewing him as merely a Provincial Governor, his public acts became binding on those who should succeed him in the exercise of those powers. That accordingly, his two immediate successors in the Administration have not only adopted but given effect to his acts in regard to me, so far as was then necessary, or for the advantage of Government; and that now his guarantee cannot, I respectfully submit, be converted into a leonine contract, of which

I shall bear the whole ruinous loss, and the Government retain the whole advantage.

The Provincial Secretary's letter informs me that "Your Excellency is advised that a reference to the Provincial Parliament would be unsuccessful."

I respectfully urge that a party with whom an agreement is made and who has performed his part of it, has an indefeasible right to require of the other party who enjoys the benefit agreed upon, to make every exertion and exhaust every expedient to fulfil his obligation, whatever may be the seeming probabilities of success or failure. But if I might be permitted to appeal to principles sanctioned by Your Excellency's adoption, that human nature, the same everywhere, will ultimately yield to justice and reason, calmly enforced, and that even those who have been in the wrong will ultimately under that influence put themselves right, it ought not to be supposed beforehand that the Provincial Parliament, not yet applied to on the subject, will reject a claim founded in justice and reason, especially when the filling the vacancy created by the guarantee, of which I claim the fulfilment, has been one of the measures of that policy, the adoption of which, by Your Excellency's Predecessor, has called forth an expression of confidence and satisfaction from the Representatives of the People.

But should Your Excellency decline adopting this course to obtain the means of doing me justice, I then pray that my claim may be brought in all its circumstances before Her Majesty's Government, as one in which the faith, honour and justice of the Crown are principally concerned, and inseparably bound up to procure me redress in some way or other. Here again it does not concern me, to whom the guarantee given has been ineffectual, to consider the probabilities of success or to point out the way of redress; sufficient it is for me to know that the person who gave me the guarantee acted in that respect as the depository of the authority of the Crown, that the stipulations entered into with me have not been fulfilled, and that his acts have not only not been repudiated by the Crown, but that the Crown now enjoys the benefit of the arrangement to which I consented when I was not compellable to do so.

And this leads me to the third alternative which it is in the power of Government to adopt, in order to do that simple justice which the case admits.

Whether the guarantee given to me is or is not likely to be affirmed and executed by the Provincial Government, whether it was or was not originally binding upon the Provincial Government through all its changes, or on the Crown, it has been carried into effect to my detriment. The situation I vacated to give effect to the views of the Representative of the Crown has been filled up by the Crown; but it is still as much in the power and disposal of the Crown as the office of Commissioner of Crown Lands was in September last. Where an agreement of exchange is made and executed on one side, but broken on the other, the party who has received benefit by it is bound, I humbly conceive, by every obligation of force among men, to restore the thing he has received, if still in his power, with all the advantages that belonged to it when the exchange was agreed upon, whatever inconvenience or embarrassment it may cause him to do so, or whatever claims on the part of others it may bring upon him. If my case is one in which public justice, honour and good faith are concerned, these considerations will not be overborne by reasons of inconvenience or inexpediency: and here I crave leave to call Your Excellency's particular attention to the fact that when I claimed of the Government in July last the fulfilment of this guarantee, the situation I had surrendered was still vacant, and at the disposal of the Crown: that the adjustment of my claims, the justice of which was impliedly admitted, was deferred *till the end of the year*, and that the filling up of the vacancy in the intermediate period must be taken as subject to and not as barring my right to restitution if my claim was not satisfied, and I would also solicit Your Excellency's consideration of the fact that when the Patent for the situation I now hold was first accepted by me, under the temporary administration of Lieutenant-General Sir Richard Jackson, I expressly stipulated that on ceasing to hold it I should be allowed to return to that which I before filled.—See Circular from Sir R. D. Jackson and Answer. Pages 15, 16, 17.

But there is still a fourth alternative in the power of Government.

The office given to me in exchange for that I surrendered, and in lieu of and as a security for a retiring allowance of £515 a year, to which I was acknowledged to be entitled under the Act 4th and 5th Will. IV. Cap. 24, is not only of no advantage to me, but is involving me in increasing embarrassment every day that I hold it, so that I am incurring debt to pay its expences, and am in the degrading situation of being sued in a Court of Justice for the current rent of the building in which this Public Office is kept.

The Government declares its inability to redeem the guarantee under which I accepted the office or to give me redress.

Reserving my claim and right to a full indemnity for the actual loss I have sustained by the non-performance of the guarantee, as also for the loss of those advantages which I should still have reaped from the office, such as it was, if it had not been made worse by the Legislature, after I accepted it, but before it went fully into operation, I claim to be allowed at the end of the present year, when my engagement with the Officers of the Department will have expired, to surrender the office, rather than be involved in worse ruin, and to receive, until an opportunity occurs for placing me in a situation equivalent to that I originally gave up, a retiring allowance on the established Pension Fund, or otherwise to the amount to which, by Mr. Secretary Murdoch's letter of the 23rd August, 1841, I was declared to be entitled.

I trust that a grievous wrong having been done me I shall not be driven into the dilemma of suffering on the one hand daily increasing loss, of which no end can be seen, by retaining the office after the period above specified, or of sacrificing or being considered to sacrifice, on the other hand, my claims on Government for an equivalent or redress by divesting myself of it.

I am indeed informed in the Provincial Secretary's letter, that "my claim will be kept in view to be considered as occasions may arise for benefitting me consistently with the public interests." If this assu-

rance has reference to my hereafter receiving other appointments, the arrangement might answer for the future; but there is no appointment in the gift of the Crown in this Province that could fully indemnify me for the sacrifice I have made, and the heavy losses I have already incurred and am still daily subjected to, besides the responsibility which will attach to me for years after I have left my present office, to say nothing of the disgraceful position in which I am now placed with a prosecution against me in the Court of King's Bench for rent of the building occupied as a Registry Office, and other expenses relative to that Department. But supposing that I could afford to wait and to continue making advances out of my private resources for the public use, and was content to receive, through other appointments in the public service, such an income as would in the process of years remunerate me for the past, Your Excellency will allow me most respectfully to suggest, that if a *solemn pledge given to me at the important period of the granting a new Constitution to the Country, and with a view of perfecting that measure, is not to be considered and fulfilled as sacred, I do not see what greater security can be given, that a general promise of ultimate good, such as that held forth in the Provincial Secretary's letter of the 7th instant, would not be subject to the same casualties and difficulties which are now considered as preventing the fulfilment of the stipulation formerly made to me:* for Your Excellency, with the best possible intentions towards me, which I never will doubt, may be advised, when an occasion for benefitting me occurs, that it is not consistent with the public interests to do so; or before any such opportunity shall occur Your Excellency may have left the country, or other unforeseen circumstances may intervene to render the fulfilment of your intentions impossible, and in the mean time loss after loss will be allowed to accumulate, till inextricable ruin overtake me and my family.

I have only in conclusion to entreat Your Excellency's serious consideration of the case as it stands, not only in its general merits but as admitted and strengthened by Mr. Secretary Murdoch's letter of the 4th July,

at which late date not only was the guarantee given to me recognized by the Government of Your Excellency's predecessor, but my claim for indemnity for non-fulfilment of it was entertained as fit to be considered at a future fixed time so soon as the contingency contemplated by the guarantee should have arisen, which period had passed when I laid my claim before Your Excellency.

I have the honor to be, Sir,
 With great respect,
 Your Excellency's
 Most obedient humble servant,
 G. H. RYLAND.

His Excellency
 The Right Honorable
 SIR CHARLES METCALFE,
 &c. &c. &c.

SECRETARY'S OFFICE, (East,)
Kingston, 1st May, 1843.

SIR,

I have the honor, by command of the Governor General, to acknowledge the receipt of your communications of the 18th and 20th ultimo, and to inform you in reply that His Excellency regrets it is not at present in his power to remedy the hardship of your case, and that he does not see any hope of success in a reference either to the local Legislature or to the Imperial Parliament.

I have the honor to be,
 Sir,
 Your most obedient servant,

D. DALY,
Secretary.

G. H. RYLAND, Esq.,
 &c., &c., &c.

On the receipt of the above letter Mr. Ryland memorialled the Secretary of State on the subject of his claims, when Lord Stanley, in reply, demanded certain information to enable the Home Government to take the case up. This, Mr. Ryland accordingly furnished. See his letter, dated Quebec, 9th February, 1844.

*Extract of a letter from T. W. C. Mardoeh, Esq.,
Civil Secretary to the late Lord Sydenham, Go-
vernor General of Canada.*

"Brighton, 17th September, 1844.

"MY DEAR RYLAND,

"I received here, yesterday morning, your letter of the 28th August last; I am away from the office for my annual holiday, and do not expect to be back there till the end of next month.

"I do sincerely hope that your remonstrance to Lord Stanley may be successful; I have always thought and felt that yours was a case of peculiar hardship, and have never failed, when I had an opportunity, to say so, and to bear testimony to *the correctness of your interpretation of the agreement between yourself and Lord Sydenham.*

"Very sincerely yours,
(Signed,) "T. W. C. MURDOCH."

(Copy.)
No. 193.

DOWNING STREET,
31st March, 1844.

SIR,

I have received your Despatch, No. 197, of the 16th February, transmitting the copy of a letter from Mr. G. H. Ryland, in which he supplies the explanation called for by my Despatch of the 28th December last,* relative to the circumstances under which the late Lord Sydenham guaranteed to Mr. Ryland an income, as Registrar of the District of Quebec, equal to the amount of the Pension (£515 currency) which he claimed for his services as Clerk of the Executive Council of Lower Canada.

It is clear from the information afforded to me, that Lord Sydenham was fully aware of the condition attached by Her Majesty's Government to the promotion of Mr. Ryland to the office of Clerk of the Executive Council of Lower Canada, but that His Lord-

* Here is an admission which would have been followed up by an immediate liquidation of the debt, but my Lord Stanley, it will be perceived, breaks new ground and starts a fresh objection.

ship thought proper to disregard it, and entered into an engagement with Mr. Ryland, which involved a violation of the instructions of the Secretary of State. It is of course impossible for me to sanction any claim, as of right, founded on the fact of any persons, whoever they might be, taking on themselves to set aside, without even reporting the fact, the official instructions of Her Majesty's Government. The utmost that Mr. Ryland could expect, under Lord Normanby's Despatch of the 3rd July, 1839, was either to be provided with another suitable office, or to be granted a pension computed upon his emoluments as Assistant Clerk of the Executive Council.

Mr. Ryland did receive another appointment, but the income arising from it has not proved sufficient for his legitimate expectations.* I am therefore of opinion that he might, with propriety, be assigned, from the Fund of £5000 a year reserved to the Crown by the Reunion Act for Pensions, an allowance proportioned to his income as Assistant Clerk, until it should be in the power of the Provincial Government to provide him with a more lucrative office than his present one; and, the Pension Fund admit of it, I think that the allowance should be issued from the date at which he ceased to draw salary as Clerk of the Executive Council.

I have, &c.,
(Signed) STANLEY.

Right Honorable,
SIR CHARLES METCALFE, BT.
&c., &c., &c.

Mr. Ryland having remonstrated against the injustice of this decision, and prayed that his case might be laid before the Queen in Council, Lord Stanley declined on the plea that there was no judicial question involved, and ultimately threw him back on the Local Government for compensation. See Blue Book, No. 1, containing papers printed by order of the Legislative Assembly, pages 12, 13, 14, 15, 16, 17; wherefore Mr. Ryland petitioned the Assembly, complaining of the Executive for refusing to liquidate claims which they had officially acknowledged. The Petition having been referred to a Select Committee, the Report commencing on page 40, was agreed to.

* This passage is worthy of particular attention as being in direct contradiction to the whole of Lord Stanley's previous argument. Mr. Ryland's legitimate expectations are here fully acknowledged.

QUEBEC, 14th May, 1844.

SIR,

I am confident that under the peculiar circumstances of my case, you will excuse my again addressing myself direct to Your Excellency, in answer to Lord Stanley's Despatch of the 31st of March last, relative to my claims against Government.

I feel convinced that Her Majesty's Secretary of State, in calling upon me for the explanations furnished through Your Excellency in February last, and which His Lordship allows to have been, as far as I am concerned, perfectly satisfactory, could not have had any intention of evading the payment of a just and acknowledged debt by fixing on me the imputation of having deceived Lord Sydenham, or of repudiating on that ground the engagements of the Representative of the Sovereign, whose premature death prevented the possibility of explaining his public acts. But I can only account for the view His Lordship has taken of the subject by the presumption that a pressure of public business, consequent on the sitting of Parliament at the time, has been the cause of his overlooking some most material points in the case and of his thus adopting a conclusion to which on more mature reflection he would not have arrived.

Under these circumstances I am sure Your Excellency will not object to bring the case again before His Lordship, with a view, first, to its being reconsidered and his decision revised by himself; or (in the event of His Lordship still viewing it in the same manner,) to its being submitted to Her Majesty's Privy Council as involving not only individual rights and the good faith of the Crown, but embracing a vital principle of Government seriously affecting the position of Her Majesty's Representative in this Province.

I shall now, with Your Excellency's permission, briefly take up and answer the grounds on which Lord Stanley has arrived at the conclusion communicated to me.

By His Lordship's Despatch it appears that I am acquitted of having acted throughout the whole of the proceeding in any other than an honorable and upright

manner, that I concealed nothing from Lord Sydenham, and that that Nobleman was perfectly acquainted with every circumstance connected with my appointment to office, but according to the Secretary of State's fresh objection and view of the matter, the late Governor General in entering into the arrangement he made with me, violated some implied instruction, the reasons for which not having been communicated to the Colonial Office, the head of that Department cannot sanction the proceeding.

I trust it will appear to my Lord Stanley on a more deliberate and searching view of the case, that even if the Despatch of Lord Normanby were not to be viewed as written under a misconception, and therefore as not applying to my case, there has in fact been no violation of it. But there is an important preliminary consideration on which I may be permitted to dwell. Even supposing that this merely formal objection were well founded and that Lord Sydenham by one of the last acts of his government which he did not survive to report or to explain, had violated an instruction conveyed to him by the Secretary of State, justice forbids that for such an error on his part an innocent party who has surrendered advantages he was entitled to retain, and has trusted to an arrangement made, and a pledge given by the Representative of his Sovereign, whom he had reason to believe to be vested with sufficient authority for the purpose, should at a subsequent period be visited with ruin on account of a fact which he was not bound to know and had no right or power to enquire into or to ascertain ; Lord Sydenham came to Canada, to carry through a great national measure ; and was not only generally understood to hold plenary powers to make all executive arrangements necessary for carrying that measure into full effect, but the arrangements which he did make for that purpose, under such general and discretionary authority have all been maintained, and stand good, except that which he made with me ; and even that arrangement has been acknowledged, ratified and acted upon by Sir Charles Bagot and Your Excellency, as far as it was beneficial to Government, which enjoys the advantage

of it, but it is now repudiated as far as it was intended to be beneficial to me.

I would here observe, that even if Lord Sydenham had been administering the Government under ordinary circumstances, and without the peculiar trust and power which he certainly was allowed to exercise, the arrangements he made with me could not be set aside without seriously impairing the respect and confidence which ought to be placed in the public acts of the Representative of the Sovereign ; for if an agreement made by a Governor, with a public officer for his retirement, is liable to be cancelled three years after it has been carried into effect on his part, (perhaps to his utter ruin, as in my case,) upon the ground of some constructive departure from unknown instructions, there is an end to all reliance on the acts and promises of a Governor unless he produces the special authority of the Secretary of State, for every arrangement of this description which he makes, and his position will be reduced even to a lower level than that on which it has been lately attempted to place Your Excellency in the exercise of the Prerogative of the Crown.

But in point of fact, Lord Normanby's letter was written under a misconception of the circumstances of my appointment, and was on that ground considered both by Lord Sydenham and his predecessor, who received it, as not applicable to my case ; I received the appointment of Clerk of the Council from Lord Durham, in lieu of other provision which had been proposed to me ; I received it in the ordinary course of official promotion not only for my own past services of twenty-two years in the second situation in the Department, but also with express reference to my father's longer services of fifty-nine years in that and various other confidential situations ; I received it therefore with no defeasible title, but absolutely and unconditionally, and without reference to the measure of the re-union of the Provinces, which was not even recommended or proposed when Lord Durham appointed me. The effect therefore of Lord Normanby's Despatch, if effect had been given to it, would have been to alter the tenure of the office several months after it

had been bestowed on me, by annexing a condition which was not even imagined when I received it.

But giving it its fullest effect, it will be found that Lord Sydenham did not violate the instruction it conveyed. It intimated that if it were found impossible in the event of the Union taking place to continue me as Clerk of the Council, I was not to be considered as entitled to pension or compensation. But that impossibility was not found, and cannot be alleged to have ever existed; on the contrary I held the Office of Clerk of the Council, doing the duty of the whole Department for both sections of the Province for several months. The arrangement made with me by Lord Sydenham was based on the admission that I might have continued to hold the Office, and he was the person who was to judge of the possibility or impossibility of my services being continued; but this point does not rest on his admission alone, for I have shewn in my former letter to Your Excellency of the 9th February last, that the then Secretary for the Colonies, Lord John Russell, by a Letter to Lord Sydenham, the existence of which I have proved beyond a doubt, declared that I was to be continued in the office I held. I will not for a moment admit the supposition that I shall be met by another formal objection, that it was not competent to Lord John Russell, by a private letter, such as that to which I refer appears to have been, to cancel the effect of a public Despatch such as that of Lord Normanby, but I adduce it as a further and conclusive proof that the impossibility of continuing my services after the Union, which was the sole condition on which, even under Lord Normanby's Despatch, my right of preserving the Office could be defeated, did not exist in the judgment either of Her Majesty's Representative here or of the Secretary of State for the Colonies; and therefore that Lord Sydenham did not violate either the letter or spirit of that Despatch when he made an arrangement with me for compensation for the surrender of the Office in question. It cannot indeed be pretended that any impossibility of my continuing in the Office could have existed, either in reference to my fitness for it or to any grounds of public expediency, when it is considered

that the Office was not filled up for a year after I retired from it, and nearly two years after the Union of the Provinces; that the duties of it were done by a head Clerk during that period; and that it was ultimately conferred on a person who never had held any public situation higher than that of a Clerk of the House of Assembly.

But I respectfully contend, that if Lord Sydenham's arrangement with me is to be set aside because he violated instructions, it must be set aside altogether; it cannot be good in part and bad in part; it would be contrary to the plainest principles of justice that the Government should affirm it as far as it was advantageous to itself, and disaffirm it as far as it conferred advantage on me; I should then have a right upon the same principles to be replaced precisely in the situation in which I was when Lord Sydenham made the offer to me which the Government now proposes to repudiate. I ought to be restored to the situation of Clerk of the Council; and I should then be entitled to claim the same consideration and the same advantages as were extended to other Officers of my own standing and rank when the Union took place; some of whom received appointments of equal or even greater value, and others liberal retiring pensions.

Lord Stanley has intimated an opinion that at, the utmost, I should only be entitled to a pension as for the situation of Assistant Clerk of Council.

The measure of favour which His Lordship would thus give me, would place me in a worse situation than the person who succeeded me as Assistant Clerk, yet holding no Commission, and who after having held the situation less than three years, and after obtaining an increase of salary only in February preceding his retirement, was allowed by Lord Sydenham to retire upon a pension of one half of his augmented salary.

I earnestly, however, contend, that to limit me to such a rate of pension as my Lord Stanley mentions would be crowning the injustice of refusing to abide by Lord Sydenham's arrangement with me; I respectfully urge that having in consequence of my father's great age and infirmities, conducted the whole business of

the Department for some years before his death—having been appointed to succeed him, not only in the ordinary course of official promotion, but from regard had to his long and faithful services as well as to my own, and having, as I have already urged, been appointed absolutely and unconditionally by a Governor who had full powers to make the appointment, I was entitled to a retiring allowance calculated upon the emoluments of the Office so conferred upon me.

In conclusion, as my Lord Stanley has admitted that the Office to which I have been transferred, has not realized “the legitimate expectations I had a right to entertain from the agreement with Lord Sydenham,” I trust that His Lordship will not refuse to reconsider the case, in the views I have attempted now to give of it; but should the result of such revision still be unfavourable to me, I would then respectfully pray that my claim upon the justice and good faith of Government, as pledged to me by Lord Sydenham, may be brought before Her Majesty in Her Privy Council; and notwithstanding the delays and difficulties that have arisen in the adjustment of those claims, I will not abandon the hope that they will be at last admitted; and that under Your Excellency’s wise and upright administration, my case may be an example that the rights of the Subject will be fully protected, and the honor of the Crown maintained.

I have the honor to be,

Sir,

with great respect,

Your Excellency’s most obedient humble servant,

G. H. RYLAND.

His Excellency the Right Honorable

SIR CHARLES METCALFE,

Governor General,

&c. &c. &c.

REPORT.

THE SELECT COMMITTEE to which was referred the Petition of GEORGE H. RYLAND, Esquire, Registrar of the County of Montreal, beg leave to REPORT—

That after a careful examination of the numerous Documents and Correspondence connected with Mr. Ryland's Case, they have established the following facts, viz. :—

That in 1818 Mr. Ryland first entered the public service, as an Assistant in the Office of the Executive Council of Lower Canada, and in 1821 was appointed and sworn in as Clerk Assistant of the said Council, which office he held until the 13th October, 1838. On that day he received his Patent from the Earl of Durham, the then Governor-General, as Clerk of the Executive Council of Lower Canada, an appointment which appears to have been conferred in the usual manner, and without any conditions attached thereto.

From the period of Mr. Ryland's appointment in 1838, as Clerk of the Council of Lower Canada, he continued to discharge the duties of that office until the Union of the Provinces. When that event took place, Lord Sydenham, the then Governor General, did not deem it necessary or advisable to deprive Mr. Ryland of his office, but, on the contrary, thought proper to "continue his services" as Clerk of the Executive Council of Canada, and he was accordingly sworn in under his old Letters Patent to perform the duties of his office, as appears by the Minutes of Council of the 13th February, 1841, and on the removal of the Seat of Government to Kingston, he proceeded to that place with the rest of the Public Officers, in charge of his Department.

Even supposing Lord Normanby's Despatch of the 3rd July, 1839, to have been applicable to Mr. Ryland's case, (which the Committee do not admit,) it is evident that the contingency therein mentioned did not occur. For instead of its being found impossible to continue his services, he was actually appointed Clerk of the Executive Council of the Province of Canada

after the Union, and continued to perform the duties of the office for nearly a year afterwards. In August, 1841, Lord Sydenham thought it necessary, on grounds of public policy, and in organizing his Council on a new system, to make several changes in the constitution of that body, and to transfer many of the duties which up to that period had been performed by the Clerk to the President of the Council, whose salary was increased from £100 to £1,100 per annum. In consequence of this arrangement, the Governor General proposed to Mr. Ryland to surrender his appointment, and to accept in its stead the office of Registrar of the District of Quebec, at the same time guaranteeing to him an annual income, from the emoluments of such office, equal to the sum of £515 currency, which it was admitted he would be entitled to as a retiring allowance, under the Imperial Statute, 4 & 5 Wm. IV. cap 24, by which Statute the amount of pensions granted to the other Officers who retired from the public service was regulated.

Mr. Ryland, on being thus guaranteed, and being assured that the emoluments of Registrar under the Ordinance then lately passed, would amount for the first year to a very large sum, affording him ample compensation for the loss of the Council Office, acceded to this proposal, and placed his situation at His Excellency's disposal. But he expressly stipulated, in his official acceptance of the new appointment, as well as in his answer to the Circular of His Excellency Sir Richard Jackson, dated 8th December, 1841, "that in the event of the Registrarship of the District of Quebec not proving nearly equal in value to his appointment as Clerk of the Executive Council, the sum guaranteed was not to be considered as compensation in full, either for the loss of that office, or of his claim upon the Government." In consequence, however, of Lord Sydenham's decease, the Ordinance was not put in force in October, 1841, as had originally been determined, and it was not until January following that the law was promulgated. During this delay the Legislature altered the Ordinance, and in effect deprived Mr. Ryland of the advantage that he would have received

from the law as it stood when he was first appointed ; and notwithstanding his remonstrances, no steps were taken by the Executive to protect him under the arrangement previously entered into with him. And yet about the same time the Clerkship of the Council, which until then had remained vacant, was filled up, and Mr. Ryland thus prevented from returning to it, as he had originally stipulated in his acceptance of the Registrarship. Although Mr. Ryland was appointed, under his arrangement with Lord Sydenham, Registrar of the *District* of Quebec, and although the emoluments of such appointment were insufficient to satisfy, his just expectations, yet, in addition to his other losses, he was obliged, by the passing of an Act during the Session of 1844, abolishing District Registrarships, to receive instead the situation of Registrar of the *County* of Quebec, being only one-fourth of the office originally conferred upon him. And it is proved to Your Committee, by the Report of the Commissioner appointed to examine into the several offices by the Registry Ordinance, that this situation, instead of being one of profit to Mr. Ryland, has only been a source of labour and expense.

On the death of the late Registrar of Montreal, the Governor General proposed to Mr. Ryland that he should be transferred from the Quebec to the Montreal Registry Office. In acceding to this proposal, Mr. Ryland again stipulated that it should not be considered as in any way interfering with his claims under his previous arrangement with Government.

That this transfer has not benefitted Mr. Ryland, is proved conclusively by the following extract from the Report of Mr. Clarke, the Commissioner to inspect the Offices in the District of Montreal, dated the 7th April, 1846 :—

“ Since the 9th of July, 1845, the day on which Mr. Ryland assumed the duties of the office, the work has progressed with all possible celerity ; 356 Registrations by that gentleman remaining to complete the work, and 403 Entries to complete the Journal or Minute Book. These arrears were unavoidable, in consequence of the press of business, and are being

made up as rapidly as the means provided by law will admit."

The Revenue of the Office since the 9th of July, 1845, was £496; a sum scarcely sufficient to meet the actual disbursements of the Office, and yielding no remuneration whatever to Mr. Ryland.

Thus it appears that Mr. Ryland, by trusting to the guarantee of the late Governor General, has lost a lucrative office—has been deprived of all emolument, from his substituted appointments—and is now threatened with the loss of his retiring allowance, which he would have had a right to claim, at the same time that other Officers similarly situated were placed on the Pension List of the country.

Your Committee, on a consideration of the circumstances above stated, cannot but consider that Mr. Ryland's case is one of great hardship,—that his claims, the justice of which has been officially recognised by the late Governor General, Lord Metcalfe, ought not to be avoided nor overlooked; and that he has a right to expect that the contract entered into between him and the Government, of which he has performed his part, should be carried out, according to its terms; or, as that may now be impossible, that he should be fully compensated for the nonfulfilment thereof.

All which is respectfully submitted.

J. A. MACDONALD, *Chairman.*

G. MOFFATT.

OGLE R. GOWAN.

G. B. HALL.

ADAM H. MEYERS.

17th April, 1846.

The House adopted this Report, and all its conclusions, following it up by an Address to the Queen.

Editorial article, from the *Pilot* Newspaper, dated 7th May, 1846, edited by Francis Hincks, Esq., Inspector General of Public Accounts, one of Sir Charles Bagot's Ministers, and a colleague of Messrs. Baldwin and Aylwin, in 1843, as well as Member of the Executive Council in July, 1848.

MR. RYLAND'S CASE.—We had occasion last year to notice the claim of George H. Ryland, Esquire, Registrar for this County, which is one of a very extraordinary and peculiar character. Mr. Ryland was Clerk of the Executive Council at the time of the Union, and was induced to relinquish that situation which was one of considerable emolument, upwards we believe, of £1000 per annum, in consequence of a pledge from Lord Sydenham, then Governor, that he should receive an office worth at least £500 or £600 per annum, we are not sure which. Mr. Ryland holds Mr. Murdoch's letter to that effect. Relying on this promise, Mr. Ryland resigned, and, in due course, received the Registrarship of Quebec, which however he states, instead of producing him any income, has been a source of expence. These are the facts. We cannot conceal from ourselves that Mr. Ryland's case is one of hardship, and this is, we believe, generally admitted. However, he has been several years pressing his claims on the Home and Provincial Government without success. Shortly before Lord Metcalfe's departure, Mr. Ryland received a letter from Mr. Daly, *acknowledging the justice of his claim*. This letter was, it appears, written *without the concurrence of the Council and without their knowledge*; and, when it became known, caused great indignation, as Mr. Draper had resisted Mr. Ryland's claim, on the ground, as we understand, that the Province cannot be bound by the promise of a Governor made without the knowledge of his responsible advisers. In this, we think Mr. Draper right. If a claim exists, and we do think that Mr. Ryland has a strong one, it is on the Imperial Government, which alone must be held responsible for the acts of their Governors. How-

ever, Mr. Daly's letter clearly committed the Provincial Government, and the claim should either have been sanctioned, *or the Secretary should have resigned. It would take a good many rebuffs of the kind to affront Dominic Daly.* He simply kept out of the way when the vote was taken, and the Ministry were saved by the opposition, *all their own supporters voting against them.*

The question came up on the adoption of a Report of a Select Committee of which Mr. J. A. M'Donald was Chairman, and the result of which will be seen in the Routine Business. It is now proposed to address the Home Government, and another Committee has been appointed on the subject. One thing is clear, that the *official promises made by the Secretary of the Draper Ministry, in the name of the Governor General, are of no value whatever—mere waste paper.* The colleagues of the Secretary disavow his acts—he pockets the affront, and the injured party has no one to look to for redress.—*Pilot, May 7, 1846.*

Debate in the Legislative Assembly on the subject of Mr. Ryland's claim.

Mr. M'DONALD of Kingston, moved that the House do concur in the Report of the Special Committee on the petition of G. H. Ryland, Registrar of Montreal. He then went into a long detail of the facts on which the petition and the Report of the Committee thereon had been founded.

Mr. DRAPER, had taken great pains to come to a dispassionate conclusion, and he would state as plainly as possible the reasons that had induced him to come to the conclusion to vote against the motion. In the first place the office of the Clerk of the Executive Council was not accompanied with a salary of £1030, but with a salary of £500, with £50 for contingencies. The petitioner did not hold that office till after his father's death which occurred in 1838, and then he was only appointed pro. tem. as the patent had to be remitted to England and be gazetted there. In the meantime the

course of events was such that it appeared evident that there would be a Union of the two Provinces, and it was intimated by the Home Government that there would necessarily, if the Union took place, be some different arrangements as to the officers of the Government.—In the year 1841, the Union of the Provinces took place, and it is true that then the late Lord Sydenham, did make a pledge to Mr. Ryland for compensation, but he did so, in direct opposition to the commands of the Home Government. He [Mr. D.] would admit that as a principle he was bound to fulfil any pledges made by a former Administration, as he had taken the reins of Government from them, but he did not feel justified in doing so in the present case, as the claims of Mr. Ryland have always been considered fully compensated even by the Administration of which the hon. member for the North Riding was one. He had already stated that the salary was £500, to which was added £50 for contingencies, and the rest was derived from fees, accruing from the Land-Granting Department and on petitions; the fees and the amount allowed for contingencies, are not therefore to be taken into consideration; and he (Mr. D.) considered that Mr. Ryland was only entitled to whatever the Executive Government thought fit to grant him. The office of Registrar of Quebec has always been considered as full compensation. He therefore felt himself called upon to oppose the present motion.

Mr. M'DONALD of Kingston, had listened with surprise to the observations of the Attorney General West. He considered that if the engagement entered into between Lord Sydenham and Mr. Ryland was not carried into effect, there would be a manifest breach of faith between the Representative of the Crown and a subject, and if such conduct was sustained, it would put an end to public credit; a former Administration had admitted the justice of Mr. Ryland's claim, and the present one was therefore bound, according to the learned gentleman's own argument, to pay this debt. The Registry Offices are not so profitable in Lower Canada as in Upper Canada, and Mr. Ryland never received £500 a year from either the office in Quebec

or Montreal. He referred to the case of Sir Lionel Smith, to shew how promises given by a Colonial Secretary were regarded in England, even when these promises were given under a mistake. In this case the Colonial Secretary had promised Mr. Smith that his salary would be the same as his predecessor, supposing that he would be able to make it up, out of some of the unappropriated revenues of the Colony of Jamaica; this could not be done, and the balance of the salary was paid out of the general revenue of Great Britain. He [Mr. M'D.] spoke warmly on the subject, because he felt warmly; it made his blood boil to think of the manner in which Mr. Ryland was treated.

Mr. MOFFATT.—If you set aside Mr. Ryland's claim by any quirk, no confidence can be placed in the acts of any Provincial Administration. Lord Sydenham was vested with extraordinary powers, and he said to Mr. Ryland, we have other arrangements in view, but you shall not lose, by vacating the office of Clerk of the Executive Council. Why was not Mr. Ryland continued in the office; when it was not filled up, until the appointment of Mr. Parent, in 1842?

Mr. CHRISTIE—could not go quite so far as his hon. friend, although he sympathised with Mr. Ryland. At the same time he did not know by what policy that gentleman had been removed from his office and another put in his place. He did not know which was best qualified to fill it, Mr. Ryland or the present incumbent, but if there were any injustice in the case why not send Mr. Parent into the office now filled by Mr. Ryland, and put that gentleman in his own?

Mr. DRUMMOND—said it was to be regretted that the Committee was not more explicit in pointing out a remedy for the wrongs of Mr. Ryland. His was not a solitary instance; dissimulation and fraud had been practised on a whole people. Few felt more indignant than he did, at the treatment Mr. Ryland had received at the hands of the Government, but he also felt indignant at the wrongs the people had suffered. The effects are felt to-day and would be felt for years. That dissimulation, that fraud had left its traces on the statute books to this day, and had taught men to prac-

tise deceit, who had never thought of it until they found it was justified in high quarters. He could scarcely say he had examined this question with impartiality. No, he had examined it with an ardent desire to do Mr. Ryland justice, and was sorry that the Committee had not recommended an Address to the Imperial Parliament praying that compensation might be granted to Mr. Ryland. But should we pay for the deceit and fraud of Lord Sydenham? Good heavens, if that were to be the case what would we not have to pay for? We would suffer years from the wrongs done to Lower Canada. He regretted being called back to those old recollections, which were painful to him and to many who took an interest in Lower Canada. But to return to the subject, he hoped the House would take steps to do this gentleman justice, and would send a petition to the Imperial Government, that the wrongs done by Lord Sydenham as their servant, should be remedied by them. He had understood that this Government had been called on for a vote to recompense Mr. Ryland. (No, no.) Well, he understood so, and for that reason he regretted the Committee were not more explicit. The Report said that the contract made by him (Mr. Ryland) should have been carried into effect, but as that was not possible he should give a compensation. Now the only way to give a compensation, could be with the public monies of the Province. —In fact a severe reproach had been made by the friends of the Government for not acting in this manner, and he regretted it as he did not wish to see blame thrown on them when not deserved. In his opinion, they had acted correctly in not proposing a vote for this purpose, but he would join his hon. friends on the other side of the House in a petition to the Imperial Government.

Mr. HALL rose, amid cries of "question." He hoped hon. gentlemen would wait, as there was no hurry for the question. When this subject came before the House last Session, he had spoken on the authority of the Attorney General, and he was sorry he could not rely on it, for when he examined it himself he arrived at a very different conclusion from what he had then formed.

He had formed this opinion that Mr. Ryland was a very badly used man, and would continue to be so, merely because the money was to come out of our own pockets, and the Attorney General West, with all his talents, had failed most signally in his attempt to convince the House of the justice of the course taken by the Government. Without referring to Lord Sydenham at all, he would say that a pledge was given to Mr. Ryland, which the Government was bound to redeem if they had the slightest spirit of honour among them. It might be quibbled that this pledge was given by Lord Sydenham; that was nothing, it was the act of the Government, and when the Administration took office, they were bound to take that debt and to see this gentleman satisfied. The hon. member shakes his head, but if he were in Mr. Ryland's position, he would see this matter in a very different light. If he had been deceived like Mr. Ryland, and finally given an office after it was deprived of three fourths of its value, he would take a very different view of the matter. It appeared to him that the notions of economy of the hon. member for Gaspé were very ill-timed, and if he had the slightest feeling of humanity in his composition, he would see that it was a debt which should be discharged. And the hon. member for Portneuf also could not see the propriety of paying this debt.

Mr. CHRISTIE rose to explain. So far from not feeling for the wrongs of Mr. Ryland, he had expressed his sympathy for that gentleman.

Mr. DRUMMOND also rose to explain. The hon. gentleman misunderstood him apparently. He had said that the pledge given to Mr. Ryland was the action of Lord Sydenham solely, and therefore the Government had acted correctly in the course they had taken.

Mr. HALL was very glad the hon. gentleman had risen to explain. The hon. gentleman admitted that Mr. Ryland had been badly used, but the consequences were not to fall on our shoulders. Then we are not to pay the debts of thousands of pounds contracted under Lord Sydenham's Government. No, no. Mr. Killaly or Mr. Any-one-else may spend £50,000, and

the Government will ask the House to vote for it, and they would have to vote for it. But let a man of the people to whom we owe a debt come and ask for payment, and his is put off.

Mr. BALDWIN would not have risen, if it had not been for the remarks made by some hon. gentleman, that the Government is bound to recognise the claims made on Lord Sydenham. He perfectly concurred in the views of the Attorney General, that the Government was not bound to recognise them, and he for one was not prepared to do so. With regard to another question, he hoped the Attorney General would lay before the House the views which had induced the Government to take this course; he was quite satisfied that the late Government would never have refused to take any course which they were afterwards afraid to recognise in the House.

Mr. HALL rose to acquaint hon. members with the contents of a letter which they were not perhaps aware was in existence. It was a letter dated September 1843, and signed "Dominick Daly, Provincial Secretary." It said that the Government acknowledged the claims of Mr. Ryland on Lord Sydenham's promise, but that the means not being then in their power, all that could be done was to keep the claim in view in order to compensate him in a manner consistent with the public benefit. (Hear, hear.)

Mr. DRUMMOND had one question to ask. Would not the Report, if concurred in, call on the Provincial Government for the payment of this claim?

Mr. BALDWIN.—It would certainly have that effect. If it were otherwise worded he would join his hon. friends in a petition to the Imperial Authorities for the payment, as to them alone was Lord Sydenham responsible for his acts.

Mr. DICKSON said it was unimportant to him out of what funds Mr. Ryland received compensation; it was enough for him that a just claim had been made, he would not look so far a-head as to see where it should be paid, and he was surprised that when hon. gentlemen admitted the justice of the appeal, they would refuse a remedy. As an honorable member had submitted to

the House a letter from the Provincial Secretary acknowledging the justice of the claim, he considered the case was still more striking. It was however no matter whether the pledge had been given by Lord Sydenham or the Executive. If he received no redress but what he would get from the British Government, he (Mr. Dickson) would be sorry for it, and would remind honble. gentlemen of the manner in which the unanimous Address of the House respecting Alex. M'Leod was treated. He regretted the circumstance, he regretted that the Address of this Legislature, the second Legislative body in Her Majesty's dominions, should have had so little weight. He would therefore vote for the motion before the House with the greatest cordiality, as it was no more than an act of simple justice.

Mr. ROBINSON—would not go quite so far as some hon. members. In his opinion the House could remedy this matter by rendering the registrarship a more lucrative office. It appeared that in Lower Canada they could get as great an amount of work done in the Registry Office for five shillings as would cost twelve shillings and six pence in Upper Canada, and if they altered the rate of fees here a great deal might be done in the way of compensation, by making the receipts of the office greater. But he had no objection to vote for the Report and an Address to the Imperial Parliament couched in as strong language as they pleased, for he was sure that if Lord Sydenham had lived he would not have allowed this claim to remain so long unsatisfied, and it was their duty to tell the Home Government that this was one of the extraordinary methods used by a Governor sent out for the purpose of carrying an extraordinary measure by extraordinary means.

Mr. Macdonald having moved that the House do concur in the Report of the Committee on Mr. Ryland's petition, and Address His Excellency the Governor General that he will direct steps to be taken for the liquidation of the claims. The yeas and nays being taken, the division was:

Yeas 23—Nays 32.

On a subsequent motion, that the Report of the Committee be adopted, and an Address founded thereon to the Queen, praying Her Majesty to direct steps to be taken for the liquidation of Mr. Ryland's claims, it was carried unanimously in the affirmative.

ADDRESS TO THE QUEEN'S MOST EXCELLENT
MAJESTY.

MOST GRACIOUS SOVEREIGN,

We, Your Majesty's most dutiful and loyal subjects, the Legislative Assembly of Canada, in Provincial Parliament assembled, humbly beg leave to approach Your Majesty with our renewed expression of devoted attachment to Your Majesty's Royal Person and Government.

We humbly beg leave to lay before Your Majesty the particulars of a case which has resulted in serious injury to the circumstances of a faithful subject of Your Majesty, and which we beg permission to submit for Your Majesty's gracious consideration.

Previous to the Union of the Provinces of Upper and Lower Canada in 1841, the office of Clerk of the Executive Council of the latter Province was held by George H. Ryland, Esquire, he having been appointed thereto in October, 1838, and having succeeded his late respected father, who had held the same office for a long period of years—and Mr. Ryland continued in the performance of the duties of the same office under the Government of the United Province, having been sworn in as such in February, 1841.

The late Lord Sydenham, the then Governor General of the Province, in re-organizing the Executive Council, thought it proper to make several changes in the constitution of the Executive Council, and to transfer many of the duties which up to that period had been performed by the Clerk, to be President of the Council, and in effecting this arrangement, His Lordship proposed to Mr. Ryland to surrender the appointment, and to accept in its stead the office of Registrar of Deeds in the then judicial District of Quebec, at the same time guaranteeing to him an

annual income from the emoluments thereof, equal to the sum of £515 currency, to which he would be entitled as a retiring allowance, under the Imperial Statute 4 and 5 Wm. IV. c. 24.

Mr. Ryland on being thus guaranteed, *and having reason to expect that the emoluments of the office offered to him would amount for the first year to a large sum, affording him ample compensation for vacating his original one*, acceded to this proposal, and placed the latter at His Excellency's disposal.

But he expressly stipulated in his acceptance of the new appointment—as well as in his answer to the Circular of His Excellency Sir R. Jackson, Administrator of the Government, dated 18th December, 1841—that in the event of the Registrarship of the said District of Quebec *not proving nearly equal in value to his appointment as Clerk of the Executive Council, the sum guaranteed was not to be considered as compensation in full, either for relinquishing that office, or for his claim upon the Government.*

The Registry Ordinance of Lower Canada did not come into operation until the 31st December, 1841—and the time within which all existing deeds were to have been registered, and from which the great amount of remuneration would have resulted, was extended until eventually a material alteration was made in the Registration Law, establishing County instead of District Registry Offices, and causing Mr. Ryland to become Registrar of the County instead of the District of Quebec, notwithstanding his remonstrance; *and this alteration had the effect not only of depriving Mr. Ryland of a great proportion of the remuneration resulting from the arrears, but also of essentially reducing the annual income of the office.*

It is true, that at a subsequent period, namely, on the 8th July, 1845, Mr. Ryland was transferred to the more important office of Registrar of the County of Montreal, which he now holds; but the Reports of the Commissioners appointed to examine into the Registry Offices *establish that both offices have been the sources of labour and expense rather than of profit.*

From the circumstances hereinbefore detailed, the Legislative Assembly feel that the case of Mr. Ryland is one of great hardship ; that his claims, the justice of which has been officially recognized by the late Governor General, Lord Metcalfe, ought not to be avoided nor overlooked, and that he has a right to expect that the contract between the Governor General and him, of which he has performed his part, should be carried out by the Imperial Government,* according to its terms, or as that may now be impossible, that he should be fully compensated for the non-fulfilment thereof.

We, therefore, in reviewing these circumstances, humbly beg permission to call Mr. Ryland's claims, as herein set forth, to Your Majesty's gracious notice, and we humbly pray that Your Majesty will be pleased to take them into your most favourable consideration, and direct such measures to be adopted therein, as Your Majesty in your wisdom may find them to deserve.

(Signed,) A. N. MORIN,
Speaker.

* "Should be carried out by the Imperial Government," or, here follows the sequence, as *that*—meaning the possibility on the part of the Imperial Government—may now be impossible, that he should be fully compensated for the non-fulfilment thereof; and then they pray Her Majesty to direct how this shall be done, which She does, through Lord Grey, as follows:—

*The Right Honorable Earl Grey to His Excellency
the Earl of Cathcart.*

DOWNING STREET,
18th July, 1846.

MY LORD,

I have received Your Lordship's Despatch dated the 26th June last, (No. 79), in continuation of the correspondence respecting the claims of Mr. Ryland.

An examination of that correspondence has satisfied me, that the decision communicated to you by Mr. Gladstone, in his Despatches of the 1st and 26th May last, was just and well founded. My predecessor did not controvert, nor do I deny, Mr. Ryland's claim to

compensation *for whatever loss he may have sustained by the surrender of his office as Clerk of the Executive Council.* But that surrender was made with a view to Canadian objects, and in aid of a policy suggested by and directed to the interests of Canada. Mr. Ryland was a public officer of that Province, and it was as Governor of Canada, and in no other capacity, that the Lord Sydenham negotiated with him. His Lordship had no authority whatever to bind the British Treasury by any such negotiation. Whatever may be the justice of the claim, *it is, therefore,* a claim against the Local, not against the Imperial Revenue. As the House of Assembly have acknowledged the validity of it, Your Lordship *will strongly urge on that House the necessity of their providing for* the reasonable compensation of the claimant. I must decline to advise the Lords Commissioners of the Treasury to address any such recommendation to Parliament.

I have, &c.,
(Signed,) GREY.

Governor

Lieutenant General

Earl CATHCART,

&c., &c., &c.

See Lord Grey's Despatch of 31st March, 1847, to the Lieutenant Governor of Nova Scotia. Sir Rupert George's claim is as nothing compared to Mr. Ryland's.

Mr. Ryland having, shortly after Lord Elgin's arrival, applied to his Lordship to know whether he had received instructions to liquidate his claims, received in reply the following Official Letter from the Provincial Secretary :

SECRETARY'S OFFICE,
Montreal, 20th February, 1847.

SIR,

I have the honor, by command of the Governor General, to acknowledge the receipt of your letter to His Excellency of the 1st instant, and to inform you that His Excellency's attention will be given to the

subject of your case at as early a day as the *other exigencies* of the Public Service may admit.

I have the honor to be,

Sir,

Your most obedient servant,

(Signed,)

D. DALY,

Secretary.

G. H. RYLAND, Esq.,

&c. &c. &c.

Mr. Ryland to His Excellency the Right Honorable the Earl of Elgin and Kincardine, Governor General.

MONTREAL, 18th March, 1847.

MY LORD,

Having, in an interview with Colonel Bruce yesterday, explained the increasing difficulties of my position, I now take the liberty of submitting a very simple method, by which, if it meets with your Excellency's approbation, my claims may be disposed of.

The debt, as your Lordship is aware, has been admitted on all sides, and the honor of the Crown is concerned in seeing it paid.

I would propose that I shall receive debentures payable with interest, in one, two, or three years. This will at once furnish me with the means of extricating myself from the embarrassments caused by the non-fulfilment of contract on the part of the Crown, and afford time to settle the question whether the Imperial or the Local Government shall ultimately be held liable for the amount of the claim.

The Government having enjoyed the benefit of their arrangement with me for nearly six years, it surely cannot be considered unreasonable, if I urge a fulfilment of the contract on their part.

Mine, my Lord, is no common supplication for favor; it is an application for justice, founded in reason, right and equity; and I feel convinced that your Lordship will not suffer a public servant, situated as I am, to be subjected to further loss, humiliation and dis-

grace, because a doubt exists as to which portion of the Empire should be held responsible for the payment of a debt acknowledged by all parties to be due.

Should your Excellency, however, not deem it expedient to adopt the method I have here suggested, I would entreat that the matter may be disposed of in such other way as that I may be furnished with the means of shewing that the pledge of the Crown will be redeemed, and that justice, however tardy, will ultimately be forthcoming. This I have a right to expect, and this, as the Creditor of the Crown, I most respectfully demand.

On reference to the official acknowledgment of my claims by Lord Metcalfe, it will be seen that the present opposition, or what is denominated the Baldwin and Lafontaine party, were at that time in office. The communication, therefore, having been made through their Colleague, the regular official organ or channel, was binding on the Administration of that day as it is upon that of the present.

Thus, then, I have in my favour the combined admissions of three Representatives of the Sovereign, of the past Administration and the present, the voice of the Public, the solemn Act of the Legislature, and the confirmation of the Sovereign,—what more can be required to authorize the payment of the debt, and wherefore, my Lord, am I still compelled to suffer?

The manner of my address may appear strange to your Lordship, but, believe me, I would not under ordinary circumstances thus press this matter on your notice.—It is my necessities and urgent demands, which I am unable to meet, which compel me to this course; and to the kindly feeling of your Lordship's nature, I submit these causes, in the conviction that they will be received as a full and sufficient excuse for my present intrusion.

I have the honor to be,

My Lord,

With great respect,

Your Lordship's most obed't humble serv't,

(Signed,)

G. H. RYLAND.

SECRETARY'S OFFICE,
Montreal, 7th July, 1847.

SIR,

With reference to the subject of your claim to redress for the non-fulfilment of certain expectations held out to you by the Executive Government of this Province, in 1841; I am commanded by the Governor General to inform you that His Excellency is unable to determine the precise amount to which you are entitled, until it shall be ascertained, what the net revenue has been of the Office of Registrar, at Quebec, while held by you, and that at Montreal to which you were subsequently appointed, upon the basis of a fair and liberal allowance for necessary expenses in these offices. The difference, if any, in your favour, shall be the amount which you shall be considered as fairly entitled to claim.

I have the honor to be,

Sir,

Your most obedient servant,

D. DALY,

Secretary.

G. H. RYLAND, Esq.,
 &c., &c., &c.

(Copy.)

Extract from a Report of a Committee of the Honorable the Executive Council, on MATTERS OF STATE, dated 10th September, 1847, approved by His Excellency the Governor General in Council on the same day.

On the claim of George H. Ryland, Esquire, late Clerk of the Executive Council.

In accordance with the terms of the Minute in Council on the subject of this claim, approved by Your Excellency, on the 5th July last, the Committee have had under their attentive consideration the statements and accounts produced by Mr. Ryland, for the purpose of adjusting the amount of claim to which he would

be entitled, assuming that* the arrangement entered into by Lord Sydenham involved a specific guarantee, as before stated, and that the office now held by Mr. Ryland was not to be considered as a mere sinecure, but that a proper economy in its management and his personal assistance in conducting it were both required. Upon this principle the following statement has been made with a due regard not only to Mr. Ryland's personal discharge of his duty of Registrar of Quebec and Montreal, but at the same time to a fair allowance for maintaining the office. Governed by these rules, Mr. Ryland's statements shew that his office expenses have been restrained within no reasonable limits,† and that from his assumption of its duties, an extravagant official establishment was not only formed, unjustified by any previous knowledge of the amount of labor to be performed or by the requirements of the law, but it has since been continued at Quebec and Montreal, without any apparent necessity.

Whatever, under any circumstances, may be the fair amount of claim, it was incumbent on Mr. Ryland, as a public servant, to conduct his Department with every economy consistent with the proper performance of his public duty, by restricting all unnecessary expenditure in his office, and by giving his personal assistance‡ to its duties, the statements produced by

* Mark this—"The arrangement entered into involved a specific guarantee." Now, it takes two parties to an arrangement of this kind, and the consent of both is requisite to perfect the arrangement. Mr. Ryland's memorandum, therefore, of the 22nd August, 1841, and his conditional acceptance must be taken as the base and superstructure of the contract. But what was the "specific guarantee?" Why, the Registrarship of the *District* of Quebec, under the Ordinance 4 and 5 Vic., from which he would have received, had not the law been altered, £25,000 during the first year, with a guarantee equal to his pension of £515 in after years. Nine months, however, after the law was put in force, the District Office was taken away, and a County one substituted, thus annulling the contract with Mr. Ryland, without making any provision for him.

† See Mr. Leblanc's note, marked B, which shews that the expenses of the Montreal Office, under Mr. Ryland's predecessor, were infinitely greater than they have ever been since, and yet, under the administration of the former, the work was left undone.

‡ Mr. Ryland's personal attendance could not be given at Quebec and Montreal during the same time, and, as by the Order in Coun-

him manifested a disregard of the former, whilst they indicate, it is feared, an absence of the latter.*

It is presumed that the Official expenditure of the Registrar's Office may be fairly stated as follows :—

Mr. Ryland, as Registrar,.....	£			
A Deputy, ...	250	0	0	} †
One Clerk and Assistant, ...	150	0	0	
Stationery, rent, &c., ...	120	0	0	
Sundries, fitting up office, first year,	30	0	0	

(The expense of Mr. Ryland's establishment, as Registrar, was fixed by Lord Sydenham as £666, besides furniture.)

It may be observed that the duties of the Office, at Quebec, since Mr. Ryland's acceptance of that of

cil of July, 1845, he was obliged to superintend the work in Quebec, he entrusted the Montreal office to his Deputy, as a matter of course, and the work in both places has been well done.

* It is presumed that Lord Sydenham intended to give Mr. Ryland a full equivalent for the loss of the office he surrendered. It was valued at £1030 per annum—he gave no security and was declared entitled to a retirement of £515 per annum. As Registrar of Quebec and Montreal, however, he entered into recognizances to the amount of £11,000, and yet, with this, the Council pretend that on an income equal only to his pension, Mr. Ryland is called upon to perform labour which was not required of him in the office which, to meet the views of Government, he consented to resign. See No. 1, Appendix A, page 23. And yet, at the moment that the Executive Council descended to the pitiful meanness of avoiding the payment of a *just debt*, by a wanton, false and most ungenerous imputation, it was a well known fact that Mr. Ryland *was in the active discharge of his official duties*, and that, *for six months previously, he had not absented himself for one single day, even to visit his family, several of whom were dangerously ill*. But, it served the purpose of Mr. Morris and Mr. Badgley to back out of their responsibility, and at the same time to gratify their malice by fixing a stigma on the man they had injured.

† Mr. Ryland's accounts of actual disbursements, supported by vouchers given in on the 8th January, 1843, and approved by Lord Metcalfe, shew a sum of £812 4s. 4d. The Council, after six years' delay, allow £550.

It will be seen that this calculation has not been based either upon the terms of the contract, of the Address of the Legislature, or the directions of the Sovereign, contained in Lord Grey's Despatch, of 18th July, 1846.

Most people in this country have doubtless heard the anecdote of a notorious bankrupt who, having the goods of his principal Creditor unbroken in his possession, offered to compound at 2s. 3d., in the pound, if he was allowed six years without interest, to pay it. But, this is a refinement on the part of the Ministry on the bankrupt's offer; they hold out to Mr. Ryland, at the expiration of six years, *and as an act of great liberality*, the prospective intention of a

Montreal, have been and are performed by the incumbent there, with the assistance of a Clerk.*

The receipts from office fees in the following Schedule are taken from Mr. Ryland's statement, and the very great expenses charged for completing the registrations caused by the alterations in the Registry Acts, have been allowed as charged by Mr. Ryland; but no additional allowance has been made for the alleged correction of defects† and irregularities in Mr. Dowling's office, inasmuch as Mr. Ryland's Petition to the Legislative Assembly,‡ presented during the last Session, affirms the unaltered position of Mr. Dowling's portion of the Enregistration Department, for Montreal. Independent of the office receipts contained in his statements, the other items of charge are composed of discounts of notes, interest, legal expenses,|| the capital of an expected annuity to be received by his family after his death, the commutation of his so-called pension,§ and similar expenses, which the Government cannot be called upon to consider.

It may be observed that one ground of compensation claimed, rests upon the changes effected by the

measure to secure him 2s. 3d. in the pound, subject moreover to the contingency of their remaining in office.

* This gentleman, whom the Council travel out of their record to compliment, receives an office, free of expense, which is denied to Mr. Ryland.

† Mr. Ryland never asked for any allowance for this work, nor has he alleged corrections except in so far as would enable him to carry on the duties of the office with anything like security to himself.

These losses have all been occasioned by the breach of faith on the part of Government, and the cruel and vexatious delays in the settlement of Mr. Ryland's claims, after they had been admitted; and yet the Council say they are not answerable for the consequences. They would in fact now endeavour to convert the arrangement with Mr. Ryland into a *leonine contract*, of which he shall bear the *whole* loss, and the *Government reap the whole advantage*.

‡ Here is one of the causes of Mr. Badgley's opposition; another may be traced to Mr. Ryland having caused the loss of a very ridiculous Bill introduced by Mr. B.

|| These are only some of the losses alluded to by Lord Grey, owing to Mr. Ryland's surrender of office, and the breach of contract by Government.

§ The so-called Pension is admitted to be Mr. Ryland's right, and it was under that admission that the contract was entered into.

Statute, from District to County registration, and from the loss sustained in the expectation of profit from the law as it was originally established. It may be remarked, on this point, that the change did not take effect until the 1st March, 1844, more than two years* after his acceptance of the Registrarship of Quebec; that the time limited by law for the registration of old deeds was the 30th November, 1844, and the increased amount of labour caused by that alteration was not completed until several months after Mr. Ryland's transfer to the Registrarship of Montreal,† and at an expense, moreover, which the amount of his receipts did not cover;‡ finally, that he accepted the appointment to the office at Montreal, in July, 1845, without objection or reservation.||

In conclusion, although the allowance for office expenses has been estimated at what may be considered a high rate, it was deemed advisable to reduce that estimate previous to the 1st July last, from the desire to allow Mr. Ryland any expenses to which a fair claim can be made; but it must not be assumed that any sanction can be extended to its continuance from the above period, from which time the fair annual expenditure of the office may be taken at £320 cy.§

* If the change only took place in 1844, how could Mr. Ryland remonstrate in 1843? A reference to the Acts of Vict., 6, 15, will, however, show that the change took place on the 12th of October, 1842. So much for the learned Attorney General's knowledge of a law, to amend which he introduced his famous bill in 1847.

† Certainly not. And as the Council determined that Mr. Ryland should finish the Quebec work, as before mentioned, he could not attend in Montreal.

‡ This is the very thing Mr. Ryland complains of, and yet the Council strike off half of his disbursements in their calculation, and in order to swell the amount of his receipts.

|| This is utterly untrue, as will be seen by the subjoined correspondence between Mr. Ryland and Mr. Secretary Higginson, in which the former distinctly refuses the proposed transfer, if it is in any way to interfere with his claims, as set forth in his letter to Lord Metcalfe, of 24th of August, 1842.

§ Mr. Ryland's annual expenditure is proved to be, a Deputy £250; Clerks, £250; House-rent, £30; Stationery, Fuel and Contingencies, £110; Total, £660, an amount unequal to the work. The Council allow £320, leaving £340 to be paid out of Mr. Ryland's pocket—for the honor of holding the office. But why should the Council circumscribe the expense if the proposed payment is to be in full?

By the accompanying Schedule, it appears that in the principle established as the ground on which to estimate Mr. Ryland's claim, the sum actually due to him on the first of July last, amounts to £2,241 16s. 8d., being composed of a sum allowed for the first fitting up of the office and bringing up of the office arrears, and of the estimated deficiency in salary for the period of five years and a half, with the interest accruing on these several items.

The expenditure in the future management of the office could, in the opinion of the Committee, be greatly reduced. All arrears of registration having been disposed of, from the gradually increasing value of the returns,* no great length of time can elapse before a very respectable remuneration could be derived from the office by a proper attendance to its duties. In this view of the case, the Committee are prepared to advise that there be placed in the estimates to be submitted at the next Session of the Legislature, the block sum of £2,500 in full of all past and future claims respecting the above mentioned arrangements, and in compensation for loss of the office which Mr. Ryland originally held.†

Certified,

(Signed,)

J. JOSEPH,
C. E. C.

(A true copy.)

E. PARENT,
A. S.

The Honorable
The Provincial Secretary,
&c., &c., &c.

* It has been proved that the enregistration of deeds has considerably decreased, and this fact was before the Council in black and white, proving, also, that if, as proposed, the Custom House Bonds are done away with, they will be further diminished one half.

† Worth £1030 per annum, and which would now amount to about £7000. Most honest and upright judges! Is it thus that ye pay your private debts?—for if so the enigma is solved!

SCHEDULE.

Assuming the annual expense to be	£520	0	0
Fitting up, first year,.....	30	0	0
	£550	0	0
Receipts from 1st January, 1842, to 1st January, 1843.....	530	8	3
Excess of Expenditure.....	£ 19	11	0
Annual income.....	515	0	0
Due 1st January, 1843.....	£534	11	9
Expense to 1st January, 1844.....	£520	0	0
Receipts.....	603	0	0
Balance received.....	£83	0	0
Annual income.....	515	0	0
Due 1st January, 1844.....	£432	0	0
Expense from 1st January, 1844, to 1st July, 1845.....	£780	0	0
Do. in writing up deeds to 2nd May, 1846.....	767	19	0
	£1547	19	0
Receipts of Office.....	1903	3	0
Balance received.....	£355	4	0
Annual income.....	772	10	0
Due 1st July, 1845	£417	6	0
Expense from 1st July, 1845, to 1st January, 1847	£ 780	0	0
Receipts of Office.....	1167	10	9
Balance received.....	£387	10	9
Annual income, 18 months.....	772	10	0
Due 1st January, 1847.....	£384	19	3

Expense to 1st July, 1847.....	£260	0	0
Receipts of Office.....	338	4	0
Balance received	£ 78	4	0
Six months' income	257	10	0
Due 1st July, 1847	£179	6	0

RECAPITULATION.

1st January, 1843,—Balance due.....	£534	11	9
Interest to 1st July, 1847,	144	6	3
1st January, 1844,—Balance due.....	432	0	0
Interest to 1st July, 1847,	90	0	0
1st July, 1845,—Balance due.....	417	6	0
Interest to 1st July, 1847,	50	1	4
1st January, 1847,—Balance due.....	314	19	3
Interest to 1st July, 1847,	9	6	1
1st July, 1847,—Balance due.....	179	6	0
Amount due 1st July, 1847, £2,241	16	8	

MONTREAL, 14th September, 1847.

MY LORD,

I yesterday had the honour of receiving from the Provincial Secretary's Office an extract of a Report of Council, purporting to have been passed and approved by Your Excellency on the 10th instant, and I must confess that I am utterly at a loss for words adequately to express the feelings with which I have perused this most extraordinary and contradictory document.

It is evident that the Council have come to a decision in this matter, not on the merits of my case, not on the documents, the facts, or evidence I have furnished, not on the claim as involving the faith and honor of the Government, not on a matter on which Legislative action of the most solemn nature has been had, and upon which the direct commands of Her Majesty have been conveyed to the Head of the Exe-

cutive, but either in perfect ignorance of the true nature of the claim, upon *ex parte* evidence, or on a crude notion that a mere trifling and undefined claim had been set up on my part, which the Council were called upon to consider, and at their perfect convenience dispose of, with as little expense to the Province, and trouble to themselves, as possible.

In arriving at their decision, however, I have the satisfaction to see that they have established some important facts, which greatly facilitate the finding of the exact amount due me, viz :

1st.—That a contract existed, or rather took place between the Government and myself in 1841, binding on their part, and for the fulfilment of which on my part, a confession of value received is given by the Ministry.

2nd.—That I was considered at the period in question entitled to a retiring allowance of £515 per annum.

3rdly.—That certain claims arising out of the aforesaid contract remain unliquidated, and that the present Ministry hold themselves responsible for the payment of whatever may be due.

4thly.—That the only item susceptible of doubt in my account, viz : Interest claimed by me, is rightfully due.

This being the case I will now endeavour calmly and with all the respect which I owe to your Lordship's elevated station, to take up and deal with each objection raised by the Council in the order which they occupy in the Report, trusting that if I shall shew, which I have no doubt I shall, that they have been based in error, they will at once reconsider their Report, with a view to a prompt and full measure of justice, and immediate discharge of the debt for the past, and provision on the pension list for the future.

The first paragraph of the Report assumes as a matter of fact that an arrangement took place between the Executive Government and myself, in 1841, concluding with three most offensive assertions, viz :

1st.—That the office I now hold was not to be considered as a mere sinecure.

2nd.—That a proper economy in its management should be practiced.

3rd.—That my personal assistance in conducting the office was required.

Upon these three points I may be allowed to remark, that the arrangement entered into with me had no reference to the office I now hold, but to the District Office of Quebec; it was based on the admission that I was in the receipt from an official appointment, which I might have retained, of an income of £1030 per annum, and that I had a right to retire from the public service on a pension paid quarterly of £515 per annum. Had I treated an office therefore as a sine-cure, which, for the sake of argument merely, we will suppose to have yielded an income equal in value to the amount of pension to which I was entitled, it would scarcely have been considered very surprising or deserving of censure. But, so far from this being the case, I was selected by Lord Sydenham as an officer upon whom other Registrars might fall back for information and advice, to put into operation a most difficult and important law, affecting the interests of every landed proprietor in the country, his Lordship at the same time officially approving of my selection of Mr. Weston, as my Deputy, a gentleman perhaps better qualified than any other in Canada to fill the principal instead of the secondary position in this important office, and I appeal to every Registrar in the Province whether I did not act up to his Lordship's intentions in this respect, furnishing the forms which are now used in the several offices, and assisting the greater part of the Registrars with my advice in carrying out the duties of their departments; and during the first three years, with the exception of the period when I was in Kingston, urging on the Government the fulfilment of their contract, my attendance was regularly given from nine o'clock in the morning, to four P. M., superintending the most important branch of the department—but my labours did not end there; they often continued till midnight in preparing certificates on documents which had been registered and were required by the parties concerned; this fact,

every Notary in Quebec can speak to, and the number of deeds in circulation bearing my signature and writing will amply prove. The process of registration under the Ordinance, is very tedious, requiring the greatest caution and care, and the gentleman who drew up the Report of Council must be extremely ignorant of the working of the Registry law if he supposes that in the District of Quebec or Montreal a Registrar who performs his duty properly, can also devote his time to the personal transcription of deeds deposited for registration; nor could that duty, under any circumstances, reasonably be required from me as the head of the Department. As well might the President of the Council enter his Reports in the Council books, that the Inspector General should transcribe the public accounts; that the Provincial Secretary should copy and enter all letters on the public service; or that the Honourable the Attorney General should dismiss his Clerk, and copy his drafts himself. A Colonel of a regiment may understand the platoon exercise and have to exercise his men in it, but it is not expected that on every drill day he should go through it himself; he is responsible, however, when the men do go through it, to see that it is well done. So the head of the office is responsible to see the duties of his department properly conducted, and if he does this, it is all that can be required of him.

But proceeding to the next part of the Report, it is argued "that Mr. Ryland's statements shew that his office expenses have been restrained within no reasonable limits, and that from his assumption of its duties an extravagant official establishment was not only formed, unjustified by any previous knowledge of the amount of labour to be performed or by the requirements of the law, but it has since been continued at Quebec and Montreal without any apparent necessity."

Now, having been selected by one of Your Lordship's predecessors to put the Registry Ordinance into operation, and having been at no slight pains to make myself conversant with the Statute, I might perhaps have been allowed the credit of understanding the practical working, or, in the language of the Report,

the requirements of the law as well as most people in the country, not even excepting the Honorable the Attorney General himself, though I am aware that he has drafted a bill to amend and facilitate its operations ; at any rate after the information and explanations which I have already given on this head, I might have been spared the gratuitous affront this portion of the Report conveys. However, in order to set this part of the subject entirely at rest, I will refer Your Lordship to the memorandum of the *22nd August, 1841, laid before Lord Sydenham*, in which the proposed *scale upon which it was contemplated to form the Registry Office in Quebec is given as approved of by His Excellency* at the time. (See page 11.) Comparing this with the account of receipts and payments contained in the papers printed by order of the House of Assembly, it will be found that with the exception of two extra writers, Messrs. Gordon and Carter, the latter gentleman retained as Principal Counsel in an important libel case at present going on in the Court House of Montreal, and which together form an item of £11 6s. 8d., only, I have strictly conformed to the scale laid down. The officers having been engaged by Lord Sydenham's directions from the 1st October, 1841, the day on which, but for His Lordship's accident and death, the law would have gone into operation.

In regard to my having continued an expensive establishment at Quebec after my removal to Montreal, I will refer Your Lordship to the subjoined Report of Council, deciding that the enregistration of several thousand deeds in the Quebec Office (See page 74) should be completed by me ; this work, owing to the greater parts of the deeds being badly written in old French, in many places defaced, and extremely difficult to decipher, occupied 10 Clerks for nearly 18 months. The public interests required that my Deputy or myself should be on the spot to superintend, certify, and deliver the deeds when completed ; and having a residence near Quebec, I remained to look after this work, except for a few weeks when Mr. Weston and I changed places ; but had he remained there wholly, it

would have involved additional expense for lodging and board, as he could not have been expected to defray these charges out of his own pocket.

The third paragraph of the Report of Council, continues the unwarranted charge of want of economy, unrestricted and unnecessary expenditure in my office. This, happily for me, is easily rebutted. The subjoined note* from Mr. LeBlanc, one of Mr. Dowling's Deputies, will shew that the expenses of the department under his administration infinitely surpassed mine; his Deputy, a man of far inferior official ability to the gentleman employed by me, receiving £300 a year, instead of £250 which I pay to mine; and yet, though he did not keep the principal book required by law, viz: the Index to Estates, the whole of his work is in such a state that it will ultimately cost the Government from two to three thousand pounds to rectify and remodel it, and even then the public will not be secured;—but, as a final answer to the accusation of unrestricted expenditure, I shall here remark, that one of my best Clerks, Mr. Côté, in the receipt with me of £80 per annum, was taken out by the Government, and placed, in a junior capacity, in the Office of the Clerk of the Council, with a salary of £175 per annum. This will shew whether my officers were overpaid or not.

The Council further observe that the duties of the Office in Quebec, since my transfer to Montreal, have been and are performed by the incumbent there, with one Clerk. I have already laid before the Council, such full explanations on this head, that it would only be trespassing on Your Excellency's time, were I to repeat them. Suffice it, that the manner in which it may please my successor to carry on his office is no rule for me,—he is the Registrar of a County only, and has but a nominal Deputy who resides in Montreal—he no longer, I understand, keeps up the Index to Estates, but he does, notwithstanding the declaration of the Council to the contrary, constantly employ extra writers, and is now deriving the benefit of the perfect system introduced and kept up by me, whilst I am suffering from a contrary cause and the gross official

* See page 75.

errors and irregularities of my predecessor ; but though the time of my Clerks is constantly taken up in correcting errors in Mr. Dowling's work, the Council labour under a mistake if they suppose I have made any claim on Government for compensation on this head, though I have and shall continue to press for payment of all legal or other losses and expenses caused me by their non-fulfilment of the contract *which they acknowledge to exist between the Government and myself.*

I now come to that part of the Report which relates to compensation claimed for changes effected by Statute, and changes from District to County registration, and this paragraph alone would prove that the documents before the Council could not have been read, otherwise it would have been found that a distinct claim is made for losses amounting to some thousand pounds, caused by the provisions of the Act 6 Vict., cap. 15, which exempted Seigniors from registering seigniorial dues ; and again, on the 17th December, 1843, I protested against the further alteration of the law, by which County Offices were substituted for District Offices, and as the validity of my contract with Lord Sydenham had then been officially acknowledged, it was, I maintain, the duty of the Executive to have made provision for the preservation of my rights. This they did not do, and are consequently answerable for the consequences, at any rate the sin of the omission should not be visited on me. But the Council state that I accepted the transfer from Quebec to Montreal, without objection or reservation. My Lord, I most respectfully deny the fact. Reference to the enclosed correspondence with Mr. Secretary Higginson, will shew that I expressly refused to accept of the Montreal Office if it was intended that it should, in any way, interfere with my acknowledged rights and claims, and the conferring the office in question on me afterwards, may be considered a distinct admission on the part of the Executive, of my claims, as previously set forth in my letter to Lord Metcalfe, dated 24th August, 1844, and which are as follows, viz :

1st.—To be reimbursed the moneys which I have advanced from my private means for the public service, on the faith of Government, as pledged to me by Lord Sydenham.

2nd.—Payment of the income which I enjoyed as Clerk of the Council of Canada, from the fall of the year 1841, when I consented to retire from it.

3rd.—Remuneration for heavy losses, to which I have been subjected by the non-fulfilment, on the part of the Crown, of the arrangement entered into with me by Her Majesty's Representative.

4th.—I claim for the future a pension of £515, to which by my length of service I am entitled, under the Imperial Act 4 and 5 Will. IV., cap. 24, or to be restored to the Clerkship of the Council, with the same advantages as when I consented to retire from it.

These are the claims, my Lord, set forth in August, 1844. They are acknowledged *by the Provincial Legislature, by the Imperial Government, and by Your Sovereign, who directed Her Representative* (the servant of the Empire) to press upon the Assembly—"the necessity of providing the means for my reasonable compensation"—that compensation being in the same instructions denominated "*remuneration for all losses consequent on the surrender of the Clerkship of the Council, in 1841.*"—And why, my Lord, was this not done during the last Session, when Your Lordship, so far back as February last, five months before the meeting of the Parliament, declared my case *to be one of the exigencies of the State.*

The means of deciding the amount of claim were already as much within reach then as they are now, and if it was intended to postpone the payment of the debt, and to continue my sufferings till the next Session of Parliament, why, when the question was put to your Ministers in June and July last, whether my claim, (in compliance with Lord Grey's Dispatch) had been liquidated, and if not, why not—did they reply that it was in progress of settlement?

If the Government are sincere in their assertions, that they are desirous to do me justice, they have it

now in their power, after what then passed, to satisfy me at once without going to the House, as I have shewn in my letter to Mr. Badgley, dated September, 1847.

In conclusion, my Lord, I would remark that my position is different from that of any other officer of Government, in the country. So far back as 1836, as will be seen by the accompanying copy of a Dispatch from Lord Gosford, when, on account of my father's advanced age, it was proposed to the Secretary of State, that he should be allowed to retire in my favour, Lord Glenelg, who was disposed to comply with the proposition, referred the matter to Lord Gosford, for his Report. His Lordship, *officially acknowledging* my public services, objected to the manner only of rewarding them, on the plea of dislike to hereditary succession to office, and nothing further was done in the matter, till the arrival of Lord Durham, who overruled the objection, and caused Letters Patent to be issued in my favour, appointing me, on my father's death, to the Clerkship of the Council, which was continued to me on the Union, and which I held for nearly a year after, ultimately surrendering it under the arrangement of which I now claim the fulfilment.

My Lord, we read that Ahab, king of Samaria, having caused Naboth to be slain, took possession of his vineyard, and the vengeance of the Almighty followed; but mine is even a more cruel case than Naboth's—he was slain and his cares with him—but I have been made to die daily. Induced by fair promises of future good, and confiding in the honour of the Government, I consented to surrender my vineyard, the fruits of my labour, the reward of my sovereign for my public services.—And now, when nothing more can be extracted from me, when all my substance is gone, I am consigned with my wife and children to beggary and ruin. At any rate, such would be the inevitable result if the Report of the Committee of Council of the 10th instant were carried out. But, I feel convinced, my Lord, that neither the Council nor yourself, with the explanations and evidence now laid before you, will further hesitate

to grant me a full measure of relief; but, to use the words of Mr. Attorney General Sherwood, shortly before his appointment to office, that justice, however tardy, will at length be forthcoming.

I therefore pray that my claims for the past may be discharged by the payment of a block sum of money, either in debentures or otherwise, as the Administration may think fit, and that my name may be included in the Pension List reserved by the Union, and on which about £900 is unappropriated, and at the disposal of the Government, without the necessity of applying to the Legislature on the subject.

I have the honour to be,

My Lord,

With great respect,

Your Lordship's most obedient humble servant,

G. H. RYLAND.

The Right Honourable,

THE EARL OF ELGIN AND KINCARDINE,

Governor General,

&c., &c., &c.

DOCUMENTS REFERRED TO IN MR. RYLAND'S REPLY
TO THE MINUTE OF COUNCIL.

A.

Copy of a Report of a Committee of the Executive Council, dated the 1st August, 1845, approved in Council on the 8th of the same month.

On the subject of the difficulties between Mr. Ryland, the late, and Mr. Montizambert, the present Registrar of the County of Quebec, relative to documents deposited in the Registry Office, but the registration whereof is not completed. On examination of the reply of Mr. Montizambert to the subject matters complained of by Mr. Ryland, the Committee respectfully recommend, that as Mr. Montizambert has expressed his desire to follow out any suggestions of the Government, in reference to the satisfactory adjustment of the difficulties complained of, the course pointed out by Mr. Ryland should be carried out by Mr. Montizambert, as the most conducive to the public interest, and to the repose of the

public mind, as the same course has been adopted in Montreal by the present Registrar, and that Mr. Montizambert should be informed of this determination.

Certified,

(Signed,) E. PARENT.

A true copy,

E. PARENT,

Assistant Secretary.

B.

Montréal, Septembre, 1847.

MON CHER MONSIEUR,

En réponse à vos diverses questions contenues dans votre billet de ce jour, je dois dire que j'étais Député de M. Dowling, sur le pied de £300 par an, et que mes prédécesseurs, M. Norval et M. Gosselin, avaient le même salaire. Il y avaient deux clercs de mon tems, qui recevaient chacun, ce me semble, £75 pour l'année, et à part de ces deux clercs réguliers, M. Dowling prenait quelquefois des écrivains extra, autant que je puis me rappeler. Le loyer de l'office était, je crois, de £80 par an. Je ne saurais dire combien donnait le Bureau à l'année, n'ayant été Député que deux mois. Je crois que l'année après avoir laissé cette situation, j'ai remarqué plus de clercs que de mon tems.

J'ai l'honneur, etc.,

(Signé,) OVIDE LEBLANC.

G. H. RYLAND, Ecr.,

Régistrateur,

&c., &c., &c.

Vraie copie,

E. PARENT,

Assistant Secrétaire.

Deputy,.....	£300
2 Clerks, at £75.....	150
1 " for night work.....	75
Office rent	80
Printing, Stationery, Books, at least	60
Fuel and Office Servant.....	45
	£710

To which may be added during the first year, furniture and fitting up office, stoves, &c., &c., say..... 78

Total,.....£788

14th September, 1847.

By Mr. LeBlanc's note it will be seen that the establishment was afterwards increased, so that if a sum of £2000 is added, as requisite to remodel the work, Mr. Dowling's expenditure may be estimated at double mine.

C.

GOVERNMENT HOUSE,
May 23rd, 1845.

MY DEAR SIR,

I am desired by the Governor General to enquire whether it would be agreeable to you to be transferred to the Registrarship of Montreal, in the event of its being in His Lordship's power to appoint you to that Office.

I am, &c.,
(Signed,) J. M. HIGGINSON.

G. H. RYLAND, Esq.,
&c., &c., &c.

A true copy,
E. PARENT,
Assistant Secretary.

D.

MY DEAR SIR,

I hasten to reply to your kind note of yesterday's date, which I have this instant (2, P. M.) received. I have been confined to the house by illness for the last two days, and I fear I shall not be able to proceed to Montreal before Monday evening. If His Excellency the Governor General, therefore, will permit me to postpone my answer to your communication till I can have visited the Registry Office in Montreal, on Tuesday next, he will very much add to the gratitude which I cannot but feel for the kind and considerate manner in which His Excellency has placed the offer of the Registrarship of Montreal before me.

I have, &c.,
(Signed,) G. H. RYLAND.
Mount Lilac, 24th May, 1845.

A true copy.
E. PARENT,
Assistant Secretary.

E.

MY DEAR SIR,

Having been enabled to visit the Registry Office here, I am confirmed in my opinion, that *none* of these offices, if properly conducted, *can, under the present law and tariff, afford a fair remunerating income*; nevertheless, as the position in which, as His Lordship knows, I am unhappily placed, compels me at once to dispose of my property, I naturally feel desirous to leave a part of the country, which must ever in future be associated with painful recollections, and as my residence at the *Seat of Government will enable me to advocate my claims*, Lord Metcalfe's kind offer to transfer me from Quebec to Montreal is certainly agreeable, and I beg again to assure him, that the considerate kindness which induced him to make me that offer is duly and gratefully appreciated.

(Signed,) G. H. RYLAND.

Tétu's Hotel, Montreal, 28th May, 1845.

A true copy.

E. PARENT,

Assistant Secretary.

F.

TÉTU'S HOTEL,

Thursday, 29th May, 1845.

MY DEAR SIR,

From your note of yesterday's date, I fear that His Lordship believes that I intend making him a party to an engagement, when in fact I am only desirous of *guarding against the inference that I am making myself a party to any understanding whereby I might hereafter be understood to have forfeited my claims*. If His Lordship's residence in this country were to be permanent, such a precaution would be quite unnecessary, but with *my experience of the causes of my present embarrassments, I must frankly declare that I cannot consent to forego my existing claims, or any part thereof.** I mean no more, and exact no pledge.

* Was this accepting the transfer to Montreal without "objection or reservation," as stated in the Report of Council, on the 10th September, 1847.

This you will observe is on my part an indispensable, but a mere *protective proceeding*; and repeating what I have already written, that the proposed transfer will be agreeable to me, I accept His Lordship's offer, and remain, &c.,

(Signed,)

G. H. RYLAND.

J. M. HIGGINSON, Esq.,
Civil Secretary.

A true copy.

E. PARENT,
Asst. Secretary.

G.

(Copy.)

QUEBEC, 17th June, 1845.

SIR,

I have the honor to acknowledge the receipt of your official communication of yesterday's date, informing me that it is "His Excellency the Governor General's intention to confer upon me the Office of Registrar for the County of Montreal, in lieu of the office which I at present hold," and in reply I have to request you will convey to His Excellency my grateful assent to the *proposed transfer*.

In regard to the latter part of your letter, however, I remark that the proposal to withdraw my pension is founded on what appears to me to be an erroneous and narrow construction of the terms of Lord Stanley's Dispatch, which warrants the continuance of the pension only until such time as it shall be in the power of the Provincial Government to appoint me to some more *lucrative* office than my present one. These terms, I regret to say, are so indefinite, as to forbid my acquiescing unreservedly, as I should wish to do, in every proposition emanating from the Governor General.

If by the words "more lucrative office," you mean an income equal to that which was guaranteed to me under circumstances which I need not now detail, then I accept the proposition unconditionally. But as I have never acquiesced in the decision arrived at by Lord Stanley, and have hitherto drawn the amount authorized by him, considering it as but an instalment of a greater indemnity to be paid at a future day—if it be now

meant to deprive me of my pension, whatever be the excess of income over my present office, to be derived from *the proposed transfer*, I am compelled *in the most respectful manner to make known my dissent*.

To record my views with the requisite precision, I must add, that if the emoluments of the proposed office be equal to the income to which I am entitled under a solemn engagement with the Government, which the Governor General has recognized and professed his desire to fulfil, I shall cheerfully forego my pension—if it be not, I can accept that increase only as part payment of what His Excellency has admitted to be justly my due.

I have the honor to be,

Sir,

Your most obedient servant,

G. H. RYLAND.

To the Honorable

MR. DALY,

Provincial Secretary,

&c., &c., &c.

REGISTRY OFFICE,

1st May, 1848.

SIR,

As the period has arrived, when the annual arrangement with the Officers of my Department closes, I have again to bring the subject matter of my claims on Her Majesty's Government, before His Excellency the Governor General in Council.

On Saturday last I had the honour of placing in your hands a memorandum by which it will be seen that the recent changes in the Custom House law will have the effect of reducing the yearly gross receipts of the Registry Office, even under the most favourable circumstances, to an amount of less than £500.

In the Session before the last, I submitted to the House of Assembly the difficulty I experienced in carrying on the duties of this Department, owing to the neglect of my predecessor, and to the errors and gross inaccuracies in every part of the work effected by him, and his Deputy, Mr. Middleton.

These causes still operate as an insurmountable obstacle to the charge of my official duties with anything like credit to myself or security to the public, and has imposed on me the necessity of keeping up an Establishment, which the receipts of the Office are inadequate to meet.

Under these circumstances I earnestly pray that I may be placed upon the permanent Pension List, with an annual retirement equal to the amount to which I was admitted to be entitled in August, 1841, when I surrendered my office by the desire and upon the promise of Her Majesty's Representative.

Upon this arrangement being effected, I would further intimate to you that I shall forthwith resign my present office.

This, you will remember, is a renewal, wrung from me by my continued distressed and irremediable condition, of a proposal officially made to Lord Metcalfe, on the 18th April, 1845.

In submitting this request, I would urgently entreat that my claims for the past, which have been admitted by both the Imperial and Local Government, may be taken up and discharged by the payment in debentures, or otherwise, of such a sum as in fairness and equity I may be conceived entitled to receive.

That amount I leave unhesitatingly to the sense of justice of the present Administration, only praying that relief may be prompt, so that, if possible, I may avert the immediate ruin with which my family are threatened, in consequence of my faith in the honour of the Government.

If any authority for the liquidation of my claims, other than those which I have already cited, viz: The admissions of the Provincial Legislature, of the Imperial as well as of the Local Governments, is requisite, I may be permitted to point to the Despatches of the Secretary of State to the Lieutenant Governor of Nova Scotia, of the 31st March, 1847, and 3rd March, 1848, as applying most forcibly to my case; and when to these is added the fact that a solemn contract existed between the Representative of the Sovereign and myself, under which I consented to surrender

the Council Office, when I was not compellable to do so, every principle of honour, equity and good faith, will point out that I should not continue to be made to suffer because others may have sinned or exceeded their authority.

Appealing, then, to the present Administration, for that justice which their predecessors denied, at the same time that they admitted the claim and the authority of Lord Grey's Despatch, directing the payment of the debt,

I have the honour to be,

Sir,

Your most obedient servant,

G. H. RYLAND,

Secretary.

Certified a true Copy,

ET. PARENT,

Assistant Secretary.

SECRETARY'S OFFICE,

Montreal, 3rd June, 1848.

SIR,

I have the honour to acknowledge the receipt of your letter of this date, soliciting the immediate issue in your favour of a Warrant for £500, on account of the claims which you have submitted to the Government.

You state that if you understood His Excellency the Governor General rightly, a sum of two thousand and five hundred pounds was inserted in your favour in the last Estimates, upon which the House passed a vote of credit.

I have submitted your letter to the Governor General, and am commanded to inform you that in granting a gross sum of money to the Government, last Session, the Legislature did not approve of, or recognize, any estimate, and that all payments from the sum granted, must be upon the judgment and responsibility of the Government.

I am further commanded to say that, in all cases, *where claims are preferred upon the liberality of*

the Government, or where doubt exists as to the final concurrence of the Legislature, in any specific claims, it has been thought necessary to postpone payment until there shall be an opportunity of submitting an estimate in detail. And as to your own particular claim, His Excellency thinks it right that you should be informed, that so far as the Government has been enabled to understand your case, it is not at all probable it will be enabled to ask from Parliament the grant of a sum of money to cover the losses and disappointments set forth in your several applications for relief.

I have the honor to be,

Sir,

Your most obedient servant,

R. B. SULLIVAN.

Secretary.

G. H. RYLAND, Esq.,

Registrar,

Montreal.

REGISTRY OFFICE,
Montreal, 5th June, 1848.

SIR,

I have the honor to acknowledge the receipt of your letter of the 3rd instant, and, before proceeding to make any reply, I trust I may be permitted to enquire whether it contains the decision of the Administration, or whether I am to look upon it merely as a communication from His Excellency the Governor General.

I have the honour to be,

Sir,

Your most obedient servant,

G. H. RYLAND.

The Honorable

Mr. SULLIVAN,

Provincial Secretary.

SECRETARY'S OFFICE,
Montreal, 6th June, 1848.

SIR,

I have the honor to acknowledge the receipt of

your letter of the 5th June, instant, asking if you may be permitted to enquire whether my letter of the 3rd June contains the decision of the Administration, or whether you are to look upon it *merely* as a communication from His Excellency the Governor General.

I have submitted your letter to His Excellency the Governor General, and am commanded to inform you that this Government recognizes no such distinction as that which you have attempted to make ; and that, so long as His Excellency and the Gentlemen he has been pleased to call into the Counsels of Her Majesty in this Colony, do not publicly express dissent in opinion, it is not a matter for individual inquiry, whether communications contain the decisions of the Administration, or are merely from His Excellency.

I have the honour to be,

Sir,

Your most obedient servant,

R. B. SULLIVAN,

Secretary.

G. H. RYLAND, Esq.,
&c., &c., &c.

MINUTE OF COUNCIL.

In the spring of 1848, a change of Ministry having taken place in Canada, by which the same gentlemen who composed the Council under Sir Charles Bagot's and Sir Charles Metcalfe's Administration, in 1843, returned to office, Mr. Ryland again applied for a liquidation of his acknowledged claims, and, after repeated applications, the following Minute of Council, being in substance precisely what Sir Charles Bagot, Lord Metcalfe, and Lord Cathcart, had refused to sanction, as being unjust and unprincipled, was passed and assented to by Lord Elgin. This document, being remarkable as a specimen of special pleading, and other perversion of truth, is given in juxtaposition with the facts of the case, and a few observations, which will enable the Secretary of State, and the Public, to arrive at the true merits of the case.

Extract from a Report of a Committee of the Honorable the Executive Council on Matters of State, dated 3rd July, 1848, approved by His Excellency the Governor General in Council on the same day.

On the 13th day of October, 1838, a Commission issued under the Great Seal of the Province of Lower Canada, by which the claimant was appointed Clerk of the Executive Council of the said Province.

At that period a Legislative Union of the Provinces of Lower and Upper Canada was anticipated, and the Governor General, the late Earl of Durham, had that measure in view throughout the continuance of his mission to this Colony.

A Legislative Union of the Provinces of Upper and Lower Canada was neither anticipated nor thought of at the period in question, though a Federal Union of all the Provinces was, at the time, under consideration.

As the contemplated measure of the Union would, of necessity, make an end to all offices connected especially with the Executive Government of either Province, an end would, of course, be put to the official regulations with the Government, of the incumbents of these offices.

At the time of the issuing of the Commission above mentioned, it was a rule of the Colonial Government of England, that appointments to the higher offices of the Provinces, should await the signification of the Royal pleasure, or that the offices should be filled up provisionally, until a Warrant under the Royal Sign Manual should arrive in the Colony.

This rule was not observed in Mr. Ryland's case. The Commission issued absolutely.

This omission did not affect the legality of the appointment: the Commission of the Governor General being sufficient authority for the grant of the office.

As regards an office like Mr. Ryland's, held during the pleasure of the Crown, there could be no practical difference between an acting or provisional appointment, and one absolutely made; as, if the appointment were disapproved of, whether on grounds of personal objection or of general inexpediency, or if any conditions were considered advisable by Her Majesty's Government to be attached to the appointment, the desire of Her Majesty's Government could be carried out as well and as easily by removal of the officer as by disallowance of the appointment; and under the circumstances of the non-signification of Her Majesty's pleasure in the first instance, there could be no reason why, upon learning that the appointment was made, Her Majesty's Government should not attach any conditions to the

This is a mere assumption, dependent on an unfounded assertion. At most, it could only apply to supernumerary officers, whose services would not have been required—but who would, nevertheless, have been entitled to a retiring allowance, according to their length of service and official grade.

Mr. Ryland's predecessor never received a Mandamus, and the rule here cited is of recent date. It is not so cited, however, to impeach Mr. Ryland's title to office, the validity of which on the contrary is admitted.

This doctrine is precisely the reverse of that laid down by Lord Grey in his Despatch at the heading of this Statement. According to Lord Grey, the virtual tenure is good behaviour, while this Report asserts the right to remove the Officer, in order to impose fresh conditions.

future incumbency of the Office, which Her Majesty should be advised to impose upon the incumbent.

Upon the appointment of Mr. Ryland being made known to the Marquis of Normanby, Her Majesty's Secretary of State for the Colonies, it appears to have struck His Lordship, that, to fill up an office with a new incumbent, at a time when the Union of the Provinces was expected almost immediately to put an end to all offices, was an imprudent step; and His Lordship directed that Mr. Ryland should be given to understand, that if the two Provinces of Canada should be thereafter united, and it should be found *impossible* to continue his services, he should not be entitled to any retiring allowance on account of his appointment.

The Committee of the Executive Council are humbly of opinion that this intimation from His Lordship was wise and considerate, and was what the Colony, under its then circumstances, had a right to expect from Her Majesty's Government. For since Her Majesty's Government were determined that the Officers of the Provincial Government should be provided for, because of their loss of office inevitably arising from the measure of the Union, it cannot be imagined that any of Her Majesty's servants would advisably multiply claims to arise in this manner, by making new appointments on the eve of the Union of the Provinces, without some understanding as to the demands which might be thus originated.

It has been proved that Lord Normanby's Despatch was written under a misconception of the true circumstances of Mr. Ryland's appointment—There was no office to fill up with a new incumbent. Mr. Ryland had already been unconditionally appointed by competent authority—and Lord Seaton (then Sir John Colborne administering the Government) having consulted the Attorney General on the subject, declared that the Despatch in question could not by any possibility be brought to bear on Mr. Ryland. He caused a letter to be written to that gentleman by his Secretary, Col. Goldie, dated 12th August, 1839, advising that gentleman to withdraw a remonstrance which he had placed in his hands to be forwarded to the Secretary of State on the subject. Here it is proper to state a most important circumstance, viz:—that so inapplicable was Lord Normanby's Despatch considered that no new commission issued to Mr. Ryland under Her Majesty's Mandamus, the Commission issued by Lord Durham being deemed sufficient, the appointment having two years previously been sanctioned by the Secretary of State, Lord Glenelg. But if this assumption be intended to impeach Mr. Ryland's claim to office under that Commission, it is a gross fallacy, on which, however, a great part of the reasoning of this Report rests; that is, that Mr. Ryland at the time of the Union really held no office or commission to give up. This is really too much to assert when not only the Provincial Governors (Lord Sydenham, Sir Richard Jackson, Sir Charles Bagot, Lord Metcalfe, and Lord Carh-

cart, and the Secretary of State) have admitted that he was in office, that he surrendered his Commission, and that an agreement was made with him,—no matter whether it was reported or not, or authorized or not, for that “surrender.”

It is true that these demands would arise upon a fund disposable not under any fixed rule of law, but upon the just and equitable consideration of the Government which should have to decide upon the claims of the respective retiring Officers. It may, therefore, appear an unnecessary caution on the part of Lord Normanby to inform Mr. Ryland of the opinion held upon his particular case; but at all events it enabled him to consider whether he would continue to hold the office with the limited expectations held out to him; and it deprived him of all ground of complaint if his own more enlarged expectation should happen not to be realized.

Giving Lord Normanby's Despatch, for the sake of argument, its fullest effect, Lord Sydenham did not violate the instruction it contained. It intimated that if it were found impossible, in the event of a Union, to continue Mr. Ryland as Clerk of the Council, he was not to be considered as entitled to compensation or pension—but that impossibility was not found, and cannot be alleged to have ever existed. On the contrary, Mr. Ryland held the Office of Clerk of the Council, doing the duty of the whole Department for both sections of the Province, for several months, having, (as there was no Clerk of the Council in Upper Canada whose claims could clash with his,) under his old Commission, and in compliance with directions contained in a letter from the then Secretary of State, Lord John Russell, been unconditionally sworn in as Clerk of the Council of Canada, as will be seen by the Minute of Council here following:

SATURDAY, 13th Feb., 1841.

At the Council Chamber, in the Government House, Montreal:

Present,

His Excellency the Right Honorable Lord Sydenham, Governor General of British North America, &c., &c., &c.

His Excellency the Governor General, having intimated that he had caused Letters Patent, under the Great Seal of the Province, to issue, appointing the Honbles. Robert B. Sullivan, John Henry Dunn, Dominick Daly,

Samuel Broley Harrison, Chas. Richard Ogden, William Henry Draper, Robert Baldwin, and Charles Dewey Day, Esqs., to be Members of Her Majesty's Council for the Province of Canada; then appeared: The Honorables D. Daly, S. B. Harrison, C. R. Ogden, and W. H. Draper, who severally took and subscribed the oaths of office prescribed by law, which were administered by His Excellency, George H. Ryland having subsequently been sworn in as Registrar and Clerk of the Executive Council of the Province of Canada. The Council adjourned.

Certified,

E. PARENT,
Cl. Ex. Cl

In 1836, Lord Glenelg, then Secretary of State, agreed to Mr. Ryland's succeeding his father in this office, subject to the approval of the Governor in Chief, Lord Gosford; in his answer to the *Despatch*, dated 9th August, 1836, "*His Lordship fully admitted the claims of both father and son to the favorable consideration of His Majesty's Government, on account of their public services,*" but feared that the manner of rewarding them might seem to savor of hereditary succession to office, to which he was averse. The subject was thus left open till the arrival of Lord Durham, to whom the final settlement of the question was submitted. The notes laid before Lord Metcalfe, in January, 1844, prove that His Lordship, through his Chief Secretary, Mr. Buller, proposed that, in lieu of the Council Office, Mr. Ryland should have the appointment of Receiver General, then hourly expected to become vacant, by the death of the incumbent Mr. Hale. This admission of claims then previously existing, is deserving of notice. The sudden death of Mr. Ry

land's father, however, took place previous to that of Mr. Hale, and upon His Lordship's subsequent determination to relinquish the Government, to secure Mr. Ryland's rights he resolved to issue a Commission under the Great Seal, conferring the unconditional appointment of Clerk of the Executive Council of Lower Canada, confirming him in all the rights, fees and emoluments of office, vested in his predecessor (see Commission, page 6.) The Office therefore was given to Mr. Ryland, not only previously, on the same terms and in the same manner as it had been held by his father, but in the terms and manner in which offices in the Colonies or in England are commonly held, determinable indeed technically at Her Majesty's pleasure, but virtually during good behaviour.

When the Union of the Provinces of Canada did take place, Mr. Ryland, for a short time, acted as Clerk of the Executive Council; but no Commission issued, and no Order of the Government passed fixing the emoluments of the office.

His emoluments as Clerk of the Council for the Province of Lower Canada, consisted of a salary of £500 sterling per annum, an allowance of £50 per annum for stationary, which as he furnished no stationary, must be regarded rather as an overlooked abuse than as a strictly legitimate charge, and of certain fees, charged against persons doing business with the Executive Government.

No new Commission was issued; it was not considered necessary, and it may be here remarked that such a Commission is not in every case indispensable. The will of the Sovereign, however expressed, constitutes the appointment, and in moments of tumult and excitement, in critical and perilous times, a Colonial Governor may justly demand the services of any of Her Majesty's subjects, and they may feel bound not only to obey, but justified in confiding to a verbal declaration of His Vice Royal pleasure. As a proof of this, it may here be remarked that several Councillors were summoned, attended in their places, were sworn in by Mr. Ryland, and took part in the debates, and decisions of the Council, without any Mandamus or Commission of any kind---this must have been held to have been legal from the necessity of the case. So, in virtue of Mr. Ryland's appointment, he was directed, six months after the

Union, to proceed alone from Kingston to Quebec to swear in, and he did then swear in, among other individuals and bodies. The present Chief Justice, Sir James Stuart, as Deputy Governor, and the Members of the Court of Appeals. If every Judgment they have since rendered be not absolutely null and void, then was Mr. Ryland's appointment sufficient. It may be observed that the piece of parchment is not the appointment but the evidence of it; the appointment, properly so called, is, as before stated, the will of the Sovereign, whether expressed verbally, of which there are examples, or by the mere delivery of the seals, as is the case with the Lord Chancellor, the highest civil functionary. This, however, is a settled point, which it is unnecessary to discuss, for, as has already been alleged, Mr. Ryland's tenure of office, his surrender of it for a consideration and upon a promise, and his right to indemnification—have all been repeatedly admitted. It is true, however, that the conclusion of this Report is incompatible with the facts so admitted and proved; accordingly, its authors have labored to deny or evade their existence, but in vain.

Mr. Ryland appears to have been under an impression that the fact of his acting as Clerk of the Council for the United Province gave him a title that the Government should continue these fees.

But on his claiming them, individuals from Upper Canada, accustomed to transact business without payment of official fees, remonstrated, and the fees were discontinued, as to both sections of the Province.

Mr. Ryland, as Clerk of the Council, claimed and had a right to certain fees, under the authority of the Fee Ordinance, passed in the year 1780, renewed and established by an Order of the Governor in Council, of the 2nd January, 1798, and subsequent order of His Grace the Governor in Chief in Council, of the 12th May, 1819—which on the Union was still in force. But he did not exact fees from the Upper Canadians. On the objections made by Lord Sydenham, he voluntarily relinquished any right he might have to do so, retaining his claim for compensation.

Mr. Ryland appears to claim that he voluntarily relinquished these fees, or that they could not be properly discontinued without his assent, or at all events without remuneration; but the Committee of Council cannot consider that the office was at the time finally organized or arranged under the Union Act. Mr. Ryland was not an officer commissioned with certain fees appurtenant to his office. The necessity of the case required that some person should at once discharge the duties of Clerk of the Council; and the fact that a Commission did not issue until after the fees were abolished, is abundant proof that they were not advisedly meant to form part of the official income.

But his claim was not admitted; on the contrary, the Governor General in a note written under Mr. Ryland's remonstrance on the subject, states that he did not believe the Clerk to have any right to the fees at all.

The official income allowed to Mr. Ryland during the latter part of his temporary incumbency of the office of Clerk of the Council of the United Province, was £500 currency. This was, upon the appointment of Mr. Parent, reduced to £400 sterling. The salary was, on the 1st October, 1844, fixed at £600 currency. These changes show how far the Government was from considering the income of the office established, during Mr. Ryland's continuance in it.

Mr. Ryland repeatedly asserts that he gave up a Patent Office, of which he could not be deprived, worth £1030 per annum. But he did not give up the Office to which the Union put an end; and if he gave up any office it must have been the one in which he was acting without a Com-

As has been already shewn, Mr. Ryland had been duly appointed, and was in the discharge and exercise of his official functions. Those fees were subsequently abolished, it is in this Report truly said, but how could they have been abolished if they had not existed? This fact then, this abolition, proves the pre-existing legality. It amounts to proof positive that Mr. Ryland had a right to exact them; otherwise, why were they abolished in the time of his successor?

This is incorrect; it is true that Lord Sydenham at first expressed a belief that Mr. Ryland had no right to these fees, but on proof being given to the contrary, he at once admitted the right, and as regards Lower Canada, granted money compensation.

This is a mistake; Mr. Ryland's duties were of a higher order and much more onerous than those of his successor, and as the agreement with Lord Sydenham proves he continued in the enjoyment of the same income during the latter part of his incumbency. The fact of different incomes being allowed to his successors, proves nothing further than that the Government having, after he left the office, reduced the income to £400, was compelled to raise it to £600.

In the preceding paragraph it is said that the income of the office was not established during Mr. Ryland's tenure of office. Here it is stated that the emoluments attached to that office by the Government were £500 per annum—both assertions however are untrue; the emoluments, as

mission after the Union, and the emoluments attached to that office by the Government were £500 per annum.

When it was resolved to appoint Mr. Ryland to the office of Registrar of Quebec, Lord Sydenham made him an allowance out of the funds in His Lordship's hands, equivalent to *one-half* what *the estimated* fees would have amounted to, had they been exacted; and His Lordship permitted Mr. Ryland to receive the salary of Clerk of the Council, namely: £500 per annum, until the Registry Act should come into operation. His Lordship's successor in the administration of the Government, on account of certain expenses incurred by Mr. Ryland, in preparation for the Office of Registrar, the creation of which was delayed for a time not at first anticipated, made an allowance in addition to the salary, equivalent to the same one-half the estimated fees; but these allowances were not, in either instance, made, on admission of a claim of right, but in the shape of gratuities, and were only half the estimated amount which would have been received for fees during the same period, had these fees been continued during the time that Mr. Ryland was allowed to receive the salary of Clerk of the Council.

In the month of August, 1841, Mr. Secretary Murdoch, on its being contemplated by Lord Sydenham, to place Mr. Ryland in the office of Registrar of Quebec, addressed a letter to him, containing the following passage:—

"But as it is possible that the emoluments of the Registrarship of Quebec may fall very far below those of your present office, His Excellency is willing to guarantee to you an income equal to the sum to which you

acknowledged by Lord Sydenham, were £1,030 per annum.

Here again the Council are in error. Lord Sydenham did not make Mr. Ryland any allowance as a gratuity, but he granted him six months' compensation for loss of fees, being one half of the annual amount of his receipts, and this amount was based upon a calculation on an average of the receipts of the three preceding years' amount of fees. See Mr. Secretary Murdoch's official letter of the 23rd August, 1841. He there says, "As it appears that the average of your fees during the last 3 years, has been £397 sterling, and you have discontinued the fees for about 6 months, His Excellency is pleased to grant you an indemnity of one moiety of that sum, making, with your travelling expenses, £252 7s." Again, on the subsequent 8th January, a warrant was issued at the same rate for "compensation," not gratuity, for 4 months' fees, viz: £146 14s. 8d. From the use of the term "compensation" it follows that the rights which Mr. Ryland had been induced to forego were well founded.

would be entitled as a retiring allowance, were your employment in the Public Service altogether discontinued. Assuming your income for the last three years to be £1030 currency, and your length of service to be 24 years, you would be entitled, under the scale established by the 4 and 5 Wm. 4, chap. 24, to a retirement equal to one-half your emoluments, or £515 currency. That amount, therefore, His Excellency is willing to guarantee to you by making up your emoluments, from the employment in the Public Service which may hereafter be assigned to you to that extent, should they be insufficient in themselves to do so. Should they exceed it, you will, of course, be entitled to the excess."

It is to be observed that the Statute referred to in the above letter, is not in the least applicable to Canada; but Lord Sydenham adopted the scale of allowance therein laid down as a convenient general rule of provision for officers whose services were discontinued at the time of the Union.

This is inaccurate; the scale under the Imperial Act 4 and 5 Will. IV., chap. 24, was adopted as a convenient and general rule of provision for officers whose services were discontinued at the time of the Union. It follows that had not Lord Sydenham made an agreement with Mr. Ryland, the latter would have retired on a pension, a consequence fully admitted by Lord Sydenham.

Upon the establishment of the Registrar's Office at Quebec, Mr. Ryland was appointed Registrar; but the Ordinance of the Special Council, which authorized the establishment of Registry Offices, was materially modified by the Provincial Parliament. The changes in the law produced a reduction in the emoluments of the Registrars, and Mr. Ryland complained to the Governor General, Sir Charles Bagot, that the receipts did not, and could not, under the then tariff, and with the minute accuracy required by the forms of registration, meet the current and necessary expenses of the office, much

This complaint was not made by Mr. Ryland to Sir Charles Bagot, but long subsequently to Sir Charles Metcalfe, on His Excellency's proposing to transfer Mr. Ryland to Montreal.

less afford an adequate remuneration to the Officer at the head of the Department, and he therefore claimed indemnity.

From a letter of Captain Bagot, Private Secretary to Sir Charles Bagot, dated on the 20th April, 1843, it would appear that Sir Charles Bagot was personally favorably disposed, as regards Mr. Ryland's claim; but in His Excellency's then position, after the arrival of his successor in the Government, he declined interfering with Her Majesty's Government in England.

It would appear also that during the Government of Sir Chas. Bagot, no official recognition of Mr. Ryland's claim upon the Provincial Government took place.

Mr. Ryland then addressed a Memorial to Sir Charles Metcalfe, again setting forth his case, and claiming not only the fulfilment of Lord Sydenham's guarantee, but compensation for his loss by reason of the changes in the Registry Law.

To this Memorial the applicant received an answer through Mr. Secretary Daly, stating that His Excellency acknowledged Mr. Ryland's claim to a fulfilment of Lord Sydenham's guarantee, but was advised that a reference to the Provincial Government would be unsuccessful.

Having, however, refused his sanction to a Report of Council similar in substance to this.

What then is the Provincial Secretary's letter of the 7th April, 1843, page 24? It is admitted that there was no Order in Council, but a Minute of Council similar in substance to and drafted by the same gentleman, Mr. Secretary Sullivan, who drew up this Report, was presented to Sir Charles Bagot, who refused his assent, objecting to the injustice proposed to be done to Mr. Ryland. In fact, then; so far as the Governor General could determine the question, he did so, and in favor of Mr. Ryland, as is admitted in a subsequent part of this Report.

This was an official acknowledgment officially communicated, of Mr. Ryland's rights, and consequently binding on the Government. That Mr. Ryland was justified in considering this as an official recognition of his claim, the following letter, from the present Provincial Secretary, will prove. It is in reply to a note from Mr. Ryland, relative to an answer he had just received, refusing an advance of money on account of his claims:

SECRETARY'S OFFICE,
Montreal, 6th June, 1848.

Sir,—I have the honour to acknowledge the receipt of your letter of the 5th June instant, asking if you may be permitted to enquire whether my letter of

the 3rd June contains the decision of the Administration, or whether you are to look at it merely as a communication from His Excellency the Governor General. I have submitted your letter to His Excellency the Governor General, and am commanded to inform you that the Government recognizes no such distinction as that you have attempted to make, and that so long as His Excellency and the gentlemen he has been pleased to call into the Counsels of Her Majesty in this Colony, do not publicly express dissent, it is not a matter for individual inquiry whether communications contain the decisions of the Administration, or merely that from His Excellency.

(Signed,) R. B. SULLIVAN,
Prov. Sec.

The rule involved in this case applies to the other; for surely none of the parties in any way expressed dissent.

This answer appears to the Committee, not to be an admission, but a denial of the liability of the Provincial Government to make good a guarantee of Lord Sydenham. It shews that Lord Metcalfe personally agreed with Sir Charles Bagot in thinking Mr. Ryland's demand just; but this is all. The opinion of Parliament was supposed to be against the claim, and it is humbly submitted that Her Majesty's Representative in the Colony has no authority, and that no authority was, by any possible inference from the language used, assumed by either Sir Charles Bagot or Sir Charles Metcalfe, to bind the Government or Parliament of the Province, present or future, to an accordance with their individual opinions as to the validity of Mr. Ryland's claim.

Upon a renewed application, and refusal on the part of the Governor General to submit Mr.

It is difficult to understand how an acknowledgement of a claim can amount to a repudiation of liability. But see Mr. Solicitor General Aylwin's letter of the 18th January, 1843, to the Provincial Secretary, page 19, communicated by order of the Governor General, dated the 20th February, 1844. This letter, written in his official capacity as Solicitor General and a Member of the Ministry, says, "I have read the documents which Mr. Ryland holds, and am fully convinced that the Government cannot shirk this claim. If there be honour or honesty in the conduct of public affairs, Ryland's claim must be recognized."

The Governor General did not refuse to submit Mr. Ryland's claim to the Legislature.

Ryland's claim to the Legislature, Mr. Ryland addressed a Memorial to Lord Stanley.

This Memorial was replied to by a Despatch, the substance of which was communicated to Mr. Ryland by Mr. Secretary Higginson, as follows:—

“ Lord Stanley gathers from the papers submitted to his consideration, that you could not be deprived of the office of Clerk of the Executive Council without your own consent or adequate compensation.” The understanding thus subsisting was not however founded upon an accurate view of the fact. In the first place, the Commission granted to Mr. Ryland, and the Royal Mandamus subsequently issued, conferred the office upon Mr. Ryland during Her Majesty's pleasure only. In the next place, his office ceased and determined on the Union of the Provinces; but above all, the loss of his office was anticipated as a consequence of the Union, when the Secretary of State confirmed Mr. Ryland's nomination to it. Despatch No. 53, 3d July, 1839, from the Marquis of Normanby to Lord Seaton, contains an instruction, “ That Mr. Ryland should be informed that if, upon the Union, it should be found impossible to continue his services, he would not be entitled to any retiring allowance on account of his present appointment.”

Lord Stanley appears, by that Despatch, to be under the impression that Lord Sydenham's pledge was given in ignorance of the full circumstances of the case; but in a subsequent Despatch, dated the 31st March, 1844, His Lordship stated that it was clear from the information afforded to him, that Lord Sydenham was fully aware of the condition attached by Her Majesty's Government to the promotion of

This is in fact not only drawing a different conclusion from the premises or papers, from that drawn by Lord Stanley, but attempting to prove that he was wrong. It was not found impossible to continue Mr. Ryland in the Council Office; on the contrary, he was duly appointed, sworn in, and acted for several months, exercising the most important functions ever entrusted to a Clerk of the Council.

How was it possible for Mr. Ryland to know that there was any violation of implied instructions? How could he insist on seeing the instructions? He dealt with a man in power, a superior, and could not be responsible for the acts of that person.

Mr. Ryland to the Office of Clerk of the Executive Council of Lower Canada, but that His Lordship thought proper to disregard it, and entered into an engagement which involved a violation of the instructions of the Secretary of State.

His Lordship, therefore, refused to sanction the claim, but suggested an allowance from the Pension Fund, proportioned to Mr. Ryland's income as Assistant Clerk, until it should be in the power of the Government to provide him with a more lucrative office than his then present one, and that his allowance should be issued from the date at which he ceased to draw salary as Clerk of the Executive Council.

Lord Stanley having committed himself and not liking to acknowledge his error, made a show of liberality, and admitted Mr. Ryland's right to a retirement equal to that which had been settled on Mr. Ryland's Messenger in the Council Office, at the time of the Union. The Assistant Clerk of the Council, at the same time, Mr. Brewer, who had been only 2 years in the office, receiving a retirement of one-half of his income of £200 stg., per annum, besides a pension of £135 as librarian of the Assembly, whilst Mr. Ryland, who was his principal, after 27 years public service, is considered as incapacitated from enjoying benefits freely conceded to his juniors.

This suggestion of Lord Stanley was carried into effect by appointing Mr. Ryland a pension of £111 2s. 2d., which, together with a pension of £50 per annum, formerly assigned to him on loss of the office of Secretary to the Jesuits' Estates, he received up to June, 1845, when the former pension of £111 2s. 2d. appears to have ceased upon Mr. Ryland's appointment to the Registrarship of Montreal, supposed to be more lucrative than the one at Quebec.

The refusal of Lord Stanley to acknowledge the liability of Her Majesty's Government in England, to make good Lord Sydenham's engagement, was reiterated by Lord Stanley himself, and by Mr. Gladstone, which latter Secretary of State, as communicated to Mr. Ryland by Mr. Secretary Higginson, on the 23rd May, 1846, instructed

Lord Metcalfe to inform Mr. Ryland, "That on behalf of the "British Treasury, Her Majesty's Executive Government "have invariably repudiated and "denied all liability to make "good the engagement formed "by Lord Sydenham, which had "never been reported to them "by His Lordship, and which, "when brought to their knowledge, they had disapproved "and refused to sanction."

Mr. Secretary Gladstone, however, stated that if the House of Assembly should think fit to regard the claim as one which ought to be met from Colonial Funds, he could have no objection to authorize the Governor General to apply towards Mr. Ryland's indemnity, out of any funds at the disposal of the Canadian Government, any sum which the Legislative Assembly might be of opinion ought to be applied to his relief.

The local Government of Canada did not think fit, upon this suggestion, to recommend to the Legislative Assembly any grant of money for the relief of Mr. Ryland; but upon his petition a Select Committee of the Legislative Assembly, then in existence, reported, on the 17th April, 1846, "that his claims, "the justice of which had been "officially recognized by Lord "Metcalf, ought not to be "avoided nor overlooked; and "that he had a right to expect that the contract entered "into between him and the Government, of which he had "performed his part, should be "carried out according to its "terms; or, as that may now be "impossible, that he should be "fully compensated for the non-fulfilment thereof."

Both Sir Richard Jackson and Sir Charles Bagot reported to the Colonial Office all the appointments which had been made by Lord Sydenham's promises.* If these gentlemen omitted to mention the circumstances attending Mr. Ryland's particular appointment (and in which they were themselves to a certain degree implicated), Mr. Ryland cannot be held responsible. It may be remarked, however, that so far from Lord Stanley having repudiated the act in question in his first Despatch, he limited himself to an inquiry, and called upon Mr. Ryland for explanations, to enable the Home Government to take the case up—(See page 32)—but if the engagement was repudiated, when was this done, surely not within one year or two after it was made. Now, time is of importance in all contracts, and whenever the principal sees fit to repudiate the act of his agent, it must be done within a reasonable period, and *res integra*. It cannot be delayed without the most mischievous results, and not after the principal has reaped the benefit for which his agent had stipulated. This is law in private life, and must apply to the Government, which, having availed itself of Lord Sydenham's bargain, and waited seven years without communicating its dissent, is estopped from urging repudiation.

* No. 4.—14th January, 1842.—Sir C. Bagot reports the appointment made by Sir A. Jackson.

73.—23rd February—Lord Stanley requires a list of these appointments.

75.—8th April—Sir C. Bagot sends the list.

156.—1st June—Lord Stanley acknowledges the receipt of it.

On this Report a question of concurrence was put, and it passed in the negative: the two Attorneys General, the Solicitor General Taschereau, and other Members connected with the then Government, voting with the majority.

Afterwards, Mr. Ryland's case was again considered during the same Session, and the Assembly addressed Her Majesty, not asking that a grant in favor of Mr. Ryland should be placed in the Estimates to be laid before themselves, but stating that "they felt his case to be one of great hardship: that his claims, the justice of which had been officially recognized by Lord Metcalfe, ought not to be avoided or overlooked, and that he had a right to expect that the contract between the Governor General and him should be carried out by the *Imperial Government*, according to its terms; or, as that might then be impossible, that he should be fully compensated for the non-fulfilment thereof."

This address which, in connection with the previous proceedings, can only be viewed as a direct negative to the liability of the local Government to make good Lord Sydenham's undertaking, appears to have been met by Earl Grey, by a Despatch, dated the 18th July, 1846, who states that an examination of the correspondence on Mr. Ryland's case had satisfied him that the decision communicated by Mr. Gladstone, was just and well-founded: that his predecessor did not controvert, *nor did His Lordship deny, Mr. Ryland's claim to compensation for whatever loss he may have sustained by the surrender of his office as Clerk of the Executive Council*; but that that surrender was made with a view to Canadian objects, and in aid of a policy suggested by and directed

The Council have forgotten to add that the whole of the supporters of the Ministry, to a man, voted against them on this occasion, and that they were indebted to the party now in power, but which then formed the opposition, for not being left in a disgraceful minority. It must be borne in mind that Mr. Ryland's petition contained charges against the Executive, for not liquidating claims they had officially acknowledged. These charges were confirmed by the Select Committee to whom the petition was referred, and the Report subsequently adopted by the House, and embodied in the Address to the Queen. And here, as containing an expression of public opinion on this unprecedented business, it may be allowable to transcribe the editorial remarks of the Montreal Herald and Gazette on this subject:

"We yesterday, under our Parliamentary head, gave a short statement of the proceedings, on Monday night, in the House of Assembly, on Mr. M'Donald's (Kingston) motion, that the House do go into Committee, to receive the Report of the Committee, on Mr. Ryland's application for indemnity, for the loss of his office, of Clerk of the Executive Council of the late Province of Lower Canada, consequent upon the Union of the Provinces. It would be observed that the Ministry opposed Mr. M'Donald's motion—Mr. Draper stating, as the ground of their opposition, that, he admitted that Lord Sydenham *had given the official pledge which had been mentioned by his learned friend*, (namely—that the emoluments of the Registrarship of Quebec, to which Mr. Ryland was appointed, should be guaranteed to reach £515, with a further allowance of £515, to complete the sum of £1,030 per

to the interests of Canada; and it was as Governor General of Canada, and in no other capacity, that the late Lord Sydenham negotiated with him; that His Lordship had no authority whatever to bind the British Treasury by any such negotiation; that whatever might be the justice of the claim, it was, therefore, a claim against the Local, not against the Imperial Revenue; that as the House of Assembly had acknowledged the validity of it, the Governor General would strongly urge on *that House the necessity of their providing for the reasonable compensation of the claimant.* His Lordship concludes by declining to advise the Lords of the Treasury to address any such recommendation to Parliament.

annum, which he received as salary in his old office). Mr. Draper admitted the official pledge, but he altogether denied *the right of any Governor General to bind the revenues of the Province.* Now, while we are happy to observe, by what fell from Mr. Draper, on this subject on Tuesday night, that, Mr. Ryland will, we trust, yet obtain that justice, to which he is so clearly entitled; we cannot pass over in silence, what, with all deference, we consider the unjust, and to us as Colonists, the dangerous principle, acted upon by Mr. Draper—namely, that the “official pledges” given to an individual, by Her Majesty’s Representative, the Governor General of British America, shall be liable to be disallowed by Her Majesty’s Ministers, on the ground of that great officer having exceeded his powers. Such a doctrine we hold to be degrading to the Governor General, and most unjust towards the subject. Her Majesty’s Representative, (whose powers are, surely, or ought to be, equivalent to those of an agent, holding a general power of attorney from a principal,) in the name of His Sovereign, enters into a money compact, *for value received*, with an individual, who can have no means of judging of the extent of his powers: the Imperial and Provincial Governments, *retain the value given*, coolly tell the party, with whom the representative of the Sovereign had *contracted*, that they repudiate the acts of the Governor General, and leave him to seek redress, by an action for the damage sustained by him, against that officer, in his private capacity. This is precisely Mr. Ryland’s situation, so far as we can learn; and we feel that, it is unnecessary for us to ask any man possessed of the feelings of a free-born subject of Great Britain, whether such a course of action, in Lord Stan-

ley, can be consistent with either justice or honor, and, far less, worthy of being sustained by our own provincial cabinet—*noscitur a sociis*, is a truthful adage, which, Mr. Draper and his colleagues will do well to bear in mind, and a Ministerial majority, composed of the opposition, too much resembles a defeat, to be creditable to any cabinet."

In pursuance of this direction, the Committee of the late Executive Council, the leading members of which had voted against the Report of the Committee in favor of Mr. Ryland's claim upon the Local Government, entered into an enquiry into the statements and accounts produced by Mr. Ryland for the purpose of ascertaining the amount of claim to which he would be entitled, "assuming that the arrangement entered into by Lord Sydenham involved a specific guarantee."

By this expression used in the Minute of Council, of the 10th September, 1847, the Committee do not understand the Executive Council to have admitted the claim of Mr. Ryland, or that they were in any manner bound by Lord Sydenham's arrangement. They proceed to ascertain a sum to which Mr. Ryland would be entitled if a certain point were assumed; and they state that they are prepared to advise that sum to be placed in the Estimates for the next Session, to the amount of £2500, in full of all past and future claims respecting the above mentioned arrangements, and in compensation for loss of the office which Mr. Ryland originally held. This view of their opinion is confirmed by a Minute of the same Council, on the 20th September, 1847,

"This is a mistake. Mr. Macdonald, the late Receiver General was the person who presented and supported Mr. Ryland's Petition in the Assembly, (See debate, page 45,) and the following note from that gentleman will prove that he considered the principle, as regarded the liability of the Government to Mr. Ryland, fully established, and the amount of compensation only remaining to be ascertained:

"NEW YORK,

"August 21, 1847

"MY DEAR RYLAND,—I received your note* this morning, and regret that my absence should cause any delay in the settlement of your claim on the Government. There can be no voting by proxy in these matters, and besides your claim has now become one of mere calculation which, of course, every one must make for himself. I can only say that I shall be happy to learn of your receiving a sufficient sum to relieve you from all the difficulties which have so long annoyed you, &c. &c.

"(Signed,)

"J. A. MACDONALD."

How is it, that in a statement of this kind, the Government pass over the Minute of Council of 5th July, 1847, communicated at the time to Mr. Ryland, in the terms following:

* This note was written in consequence of Mr. Ryland having been informed by three Members of the Cabinet that the reason of the delay in the liquidation of his claims was the absence of Mr. Macdonald, to whom the settlement of the case had been entrusted.

made on Mr. Ryland's application for an advance of £1500. In this latter Minute the Committee say, "The Imperial Government have expressed it as their opinion that Mr. Ryland's claims are not on the British Treasury, but on the Provincial Chest, and have accordingly instructed Your Excellency to bring these claims under the consideration of the Legislature, with a view to their being satisfied." They state that "they conceive the proper course for their adoption to be to lay their views before the Legislature, prior to taking any action whatever towards liquidating the claim, thus leaving the matter to the unfettered deliberation of that body." They decline, therefore, to advise that Mr. Ryland's request should be complied with. (The latter and most important part of this letter is left out in this quotation, viz.: till the sum to be paid you is laid before the Assembly in the Estimates.

SECRETARY'S OFFICE,

Montreal, 9th July, 1847.

SIR,—With reference to the subject of your claim to redress for the non-fulfilment of certain expectations held out to you by the Executive Government of this Province in 1841, I am commanded by the Governor General to inform you that His Excellency is unable to determine the precise amount to which you are entitled until it shall be ascertained what the net revenue has been of the Office of Registrar at Quebec, while held by you, and that at Montreal, to which you were subsequently appointed, upon the basis of a fair and liberal allowance for necessary expenses in these offices; the difference, if any, in your favour, shall be the amount which you shall be considered as fairly entitled to claim.

I have the honor to be,

Sir,

Your most obed't. serv't.,

D. DALE.

Sec.

G. H. Ryland, Esq.,

&c. &c. &c.

Moreover, how is it that no notice is taken of the official declaration, by Mr. Attorney General Badgley, the leader of the Ministry, in the Assembly, on the 15th July, 1847, in reply to an enquiry from Mr. Hall, asking why it was, after recognizing the claims of Mr. Ryland upon the Government, the Ministry did not adjust and pay the same—when Mr. Attorney General Badgley, the organ of the Government, declared that as soon as the claim could be adjusted it would be settled, and he believed the amount claimed would be adjusted the next day?

The late Executive Council appear to have considered the Despatch of Earl Grey a positive command to place in the Estimates a sum of money for

Though there was no opportunity for Mr. Ryland trying the question, yet when the case was brought before the House by Colonel Gagy, on the 17th

the indemnification of Mr. Ryland without any reference to the opinions of the Members of the Local Government. This state of facts would seem to involve a probability that not only the Assembly but also the Advisers of the Crown in the Province would use unfettered discretion in the ultimate decision of the question, whether Mr. Ryland was to be compensated from Colonial Funds at all. If the Members of the Local Government continued to hold the opinion upon which they voted against the Report of the Select Committee, and if the Assembly retained the opinion expressed upon the same occasion, the result of the application to Parliament must have been unfavorable. There was no opportunity for trying this question. Before the late Administration of Canada could carry their resolution of placing a sum in the Estimates, for the granting of which they were in no way pledged to vote in Parliament, a change took place in the Representation and Councils of the Province, which makes it necessary for the present Advisers of Your Excellency to consider their own position and views with reference to this claim; and upon that consideration, they, with all deference, venture to express a doubt whether Her Majesty's Colonial Secretary would desire his intimation, as to the course to be pursued by Your Excellency at the time the above mentioned Despatch was written, to be considered as applicable to the present time and state of Public Affairs in the Colony.

It would, indeed, be of little advantage to Mr. Ryland, for the Advisers of Your Excellency to recommend to be placed in the Estimates to be laid before the Legislature a proposed grant of a sum of money, in fulfilment

March, 1848, Mr. Attorney General Badgley gave as a reason why the claim had not been adjusted, that there had been a difference of opinion between the Government and Mr. Ryland as to the amount to which he was entitled; it follows therefore that the Government conceded the principle, and such was indeed the fact.

Had the late Ministry followed out the instructions contained in Lord Grey's Despatch of the 18th July, 1846, which were imperative, Mr. Ryland's claim would at once have been adjusted and paid. Such was the manifest sense of the majority. Why they did not, it is unnecessary to say. In reply to the latter part of this paragraph, a reference to Lord Grey's recent Despatches to the Lieutenant-Governor of Nova Scotia, relative to Sir Rupert George, will probably suffice to remove any doubts entertained by the Council in this matter. (See pages 1 and 2.

Yes; and it would be a most unprecedented thing for a Ministry to include sums in the Public Estimates, and then vote against them; but it is not to be supposed that an Assembly, composed of the Representatives

of a guarantee, which, upon principle, they feel bound individually to repudiate; and which, on the introduction of the proposal before the Legislative Assembly, they individually would have to refuse to recognize, giving reasons against the recognition of the guarantee, in which the Assembly would most probably concur. Such a course would not satisfy Mr. Ryland, and yet it would be the only one open to the Advisers of the Crown in this Province, if they were with their present opinions, to advise Your Excellency to ask from the Assembly a grant of money in satisfaction of Mr. Ryland's claim.

This view of the case makes it necessary for the Committee of Council to put Your Excellency in possession of the opinions which they humbly entertain respecting the guarantee in question.

They have no desire in the least to call in question the decision deliberately pronounced by successive Administrations in England, as to the non-liability of the Imperial Treasury, to make good a guarantee not intended originally to be borne upon British Finances, and not reported to or acquiesced in by Her Majesty's Government. It is for Her Majesty's Advisers to consider and decide upon the question, whether the fact of a Governor General of a Colony, entering into a personal agreement with a Colonial Officer, binds Her Majesty's Government to indemnify the Officer, should the Governor be unable to fulfil the agreement. Upon this point the Committee of Council would think it presumption to offer an opinion, but they humbly conceive that it does not follow, because it is assumed that Her Majesty's Government are not bound to offer the indemnity, that, therefore, the Provincial Government and Legislature are

of the People, who had solemnly investigated Mr. Ryland's claim, and addressed Her Majesty in Mr. Ryland's behalf, acknowledging the guarantee, and his claims, would stultify themselves by reversing, on a misstatement of facts, a decision to which they had deliberately arrived.

How can the Council take upon themselves to say that the guarantee was not originally intended to be borne upon British Finances, when, in another part of their Report, they declare that no one in the Province, to the knowledge of the present Council, was even a consulted party. Their acquaintance with the intention of the guarantee would argue a pre-knowledge of and participation in the act.

Lord Sydenham, it must be borne in mind, was the agent of the Imperial Government, putting in force an Act of the Imperial Parliament, granting a new Constitution to the Canadas. Had Lord Sydenham been a private person, Mr. Ryland would have insisted on seeing his Procurator, and in that case he would have carefully weighed every sentence, to ascertain whether he had been duly authorized. Had he found that such a power was not embraced in the instrument, he would have

bound to fulfil the agreement, or to indemnify the complaining party for its non-fulfilment.

The Governor of a Colony possessing a Legislature, cannot expend or promise to expend money so as to bind the Legislature, without its consent. In the course of Administration of a Government, it often becomes expedient for the Executive to enter into agreements involving the expenditure of money; but this is always upon the presumed confidence of Parliament in the Government for the time being, and in the moral certainty that the Majority in Parliament will sustain the Executive in which it has declared its confidence. To say that the faith of Parliament was pledged by undertakings on the part of the Executive, not authorized by Law, would be to allege the existence of something like a constitutional authority in the Government to dispose of money without the consent of the Legislature. The value of undertakings on the part of a Government must therefore be in exact proportion to the probability of a concur-

seant with him at his peril. But how could he expect that the Representative of His Sovereign would exhibit his powers to him? How could he demand the perusal of his Instructions? That was manifestly impossible. The Governor General of Canada, representing Her Majesty, declared that he was duly empowered, and that was enough for Mr. Ryland. In the present state of our Colonial Policy, therefore, no more dangerous doctrine could be broached, nor one more calculated to aggravate the difficulties of Government, and to discredit Governors, then the repudiation of the engagement, at the momentous period in question, of the Representative of the Sovereign upon such grounds. In regard to the acts of agents, it may here be allowable to refer to the following authorities: Story, on Contracts, page 210; Martin's Louisiana Reports (condensed edition, vol. 1, page 516;) Pothier de Mondat, No. 99, and Paley, on Principal and Agent, page 171.

The faith of Parliament was pledged by its own act, in confirming the charges brought by Mr. Ryland against the Executive—by acknowledging Mr. Ryland's claims, and addressing Her Majesty on the subject. This latter act may be looked upon as a draft on the Imperial

rence on the part of the Legislature in the proposed measure. An Executive Government may pledge itself to recommend a measure to the Legislature, but this pledge is merely personal, and one undertaking to do what can only be done by authority of Parliament, (whatever may be the form adopted in the undertaking,) can amount to no more than a pledge to recommend the proceeding to the favorable consideration of the Legislature, and to support it there. This can also be only personal; and the Committee humbly conceive that it is not competent to a Governor of this Province, even with the advice of his Council, or even with the knowledge that the Parliament in existence at the time of the agreement, would probably concur in giving the agreement legal sanction, if that sanction were asked, to undertake for future Governments, and Governors, and Parliaments, respecting matters over which they could have no control, or on which they could have no opportunity of exercising any judgment.

But the guarantee now in question bears no trace of having been entered into with the advice of any Responsible Minister or Officer in the Colony. It never was submitted to Parliament by Lord Sydenham, and no one in the Province, to the knowledge of any Member of the present Executive Council, was a consulted party, who can now be called upon to fulfil, or to endeavour to fulfil, the agreement.

That agreement is, therefore, reduced to one merely personal to Lord Sydenham, which His Lordship unquestionably expected to be called upon to perform himself, and which His Lordship would have felt bound to endeavour to perform himself, had he lived, and had he continued

Government, which, not being honoured, the drawer becomes answerable for the amount. But whether the Provincial Parliament would consent to provide the means or not, it was the duty of the Executive to have applied to them, and by every means in their power, to have endeavoured to obtain the payment of the debt.

Responsible Government had not, at the time of the agreement with Mr. Ryland, been granted to the Province. Nor was it granted until after the commencement of the first Session of the Provincial Parliament. Lord Sydenham was vested with discretionary powers, to enable him to make the arrangement, or, at least, he declared that he was, which could not be contradicted. The present Ministry became a party to the transaction, the instant that Mr. Ryland's claims were officially acknowledged by the Provincial Secretary's letter of the 7th April, 1843. And here, in regard to Lord Sydenham's personal responsibility, the fact that the Colony have reaped the benefit of the income surrendered by Mr.

in the Administration of the Government until the unlooked for contingency arose, of Mr. Ryland's new office not being as profitable as it was anticipated to be.

It is only on this supposal that the undertaking can be accounted for at all, or that it can be understood why a Pension was not assigned to Mr. Ryland at the time, to the full amount that His Lordship intended, subject to cease upon the acceptance by him of an office of equivalent emolument. There can be no doubt but that Lord Sydenham was personally bound to endeavour to fulfil his guarantee to Mr. Ryland, however embarrassing he might have found the promise; but he could not enter into a valid agreement, which was to embarrass his successors or successive Governments in this Province.

It is for this reason that His Lordship's successors in the Government, while they felt that Mr. Ryland misunderstood his claim to be upon the Government, and not merely upon the Governor making the stipulation, and that, therefore, his disappointment was hard upon him, yet refused to embarrass themselves with an undertaking as theirs, which they personally, or officially, had no concern with. The claim was not laid before Parliament, either by Sir Charles Bagot or Lord Metcalfe, or Sir Richard Jackson, or Lord Cathcart, or adopted by any of them, or by their constitutional advisers, officially. And yet had it been, or could it have been, considered an official, and not merely a personal undertaking, that was in question, the same obligation would have remained with them that had been with Lord Sydenham.

Ryland, must be taken as a full and satisfactory answer to the objection now raised.

This admission is worthy of particular notice. *Consensus facit legem*. The only question then is, did Lord Sydenham act against the law. Here is a direct confession that he did not, and that he was vested at the period in question, with full power and authority to place Mr. Ryland on the Pension List, with a retiring allowance of £515 per annum, and if he had that power, which undoubtedly he had, he might justly make every incidental arrangement. Thus, the guarantee may be looked upon as a charge, pledging the Pension Fund, on failure of the arrangement, to that amount, and thus there is a fund out of which part of Mr. Ryland's claim can at once be paid.

The following Memorandum, dated 8th November, recorded by Lord Metcalfe, in dissent of a similar Minute of Council to this, will be a complete answer to this portion of the Report:

(Copy.)

Although I concur entirely in many of the sentiments expressed by the Committee, in their Report of the 5th instant, upon Mr. Ryland's case, I regret that I feel compelled to withhold my approval from it, as a whole, because by approving it, I should be assenting to a principle appearing to me to be unjust, and from the adoption of which I foresee future embarrassment in carrying on the Government.

I am of opinion that the pledge given to Mr. Ryland by the late Lord Sydenham, ought to be redeemed, and I conceive that the Local Government and the

The Committee of Council cannot recognize the authority of one Governor of this Colony, by personal stipulation, to bind the future judgment or control the future discretion of succeeding Governments, and without doing this they cannot adopt the contract entered into by Lord Sydenham. They cannot believe that His Lordship contemplated a contract of this objectionable nature, and if he did, that fact could make no difference in the conclusion which the Committee of Council are compelled to adopt.

Colony are the responsible parties, because the pledge was given for a political and public object, to enable the Governor General to effect an arrangement for carrying out the new system of Government, established to meet the views then entertained in the Province.

(Signed,) METCALFE.
Monklands,
8th Nov., 1845.

"METCALFE TERRACE,"

"February 2nd, 1846.

"MY DEAR SIR,—I have received a letter from Lord Metcalfe, in which he desires me to acquaint you that your communication had reached him, but that he does not answer it, because His Lordship considers that he can no longer, with propriety, correspond on the Affairs of Canada, the charge of which has now devolved upon his successor. That, for the same reason, Lord Metcalfe cannot obtrude any opinions on the Colonial Office, but he will, at all times, be ready, if called upon, to express the same opinion on your case, that he has always entertained and officially reported.

"His Lordship does not understand your allusion to the supposed withdrawal of your papers from the Records of the Council Office,* as he believed, when he left the Province, that they were still before that Board. Lord Metcalfe desires me here to convey to you the expression of his best regard and wishes.

"I am, my dear Sir.

"Yours, very faithfully,

"T. M. HIGGINSON.

"G. H. Ryland, Esq."

* These are original documents of great consequence to Mr. Ryland's case, and which, in a Memorandum from the Civil Secretary's Office, dated 27th January, 1845, are stated to have been on that day sent from the Office to the Clerk of the Executive Council, but which have disappeared from the Record.

Mr. Ryland's claims have, in the course of years of alleged injustice on the part of the Governments of England and of this country, in withholding what he alleges to be his absolute and indefeasible right, swelled into an amount which would make the present consideration of some pecuniary consequence. *It is difficult to say that the amount arrived at by the late Executive Council would be sufficient to remunerate him for his disappointments and losses, if unjustly occasioned; but the pecuniary importance of the claim is little, compared with the principle involved, and the Committee are not disposed to enter into a question of amount of loss upon the failure of a guarantee, when they cannot acknowledge its validity.*

If, however, Mr. Ryland's claims, *apart from the undertaking of Lord Sydenham*, were such as the Committee of Council could admit, or if the undertaking were one, which, if made now under like circumstances, they could uphold and recommend to Parliament, Mr. Ryland is entitled to the same justice at the hands of Your Excellency, as he was entitled to from Lord Sydenham, at the time of his leaving the Office of Clerk of the Council; but on this point they have to repeat their approval of the precautionary condition imposed by Lord Normanby, and to express their opinion that, considering Mr. Ryland as a retiring officer at the time of the Union, and that he was already in the enjoyment of a Pension of £50 per annum, the Pension accorded to him of £111

Here is the real difficulty; but if the claim has swelled into an amount of pecuniary consequence to the Government, how much greater must the consequence be to Mr. Ryland. But whose fault is it that the amount has become so large? Not Mr. Ryland's, but that of an infirm Government, who, by mistatements, and every kind of vexatious delay, have endeavoured to evade the payment of an acknowledged and just debt, which now they would altogether repudiate. It is, however, admitted here, that assuming the Province to be liable, the sum arrived at by the late Executive Council was inadequate. As to what Lord Sydenham contemplated, no better evidence can be given than that of the living witness to the transaction, Mr. Chief Secretary Murdoch, who, in a letter, dated 17th September, 1844, "bears testimony to the correctness of Mr. Ryland's interpretation of the arrangement between himself and Lord Sydenham." See page 32.

Mr. Ryland's claim cannot be disjoined from the arrangement made with Lord Sydenham, acting as he did officially and vice-regally. In regard to Mr. Ryland's pension of £50 per annum, it was granted to him 20 years ago, for prior services, and the amount is not charged on the Funds of the Province, but upon the Jesuits' Estates, the gift of the Crown to the Province. As regard Lord Normanby's Despatch, this is resorting to thrice refuted reasoning. Of what importance can any such anterior event be to defeat a claim subsequently recognized, and in fact admitted by Sir Charles Bagot, Lord Metcalfe, the Colonial Parliament, and lastly, by Lord Grey. There have been a succession of waivers of Lord Normanby's Despatch, and the present Govern-

2s. 2d., was as much as ought, under the circumstances of his case, to have been allowed him, even if he were not appointed to another office under the Government.

ment are manifestly estopped from urging it. But, in order to set the question of Mr. Ryland's appointment at rest, and prove how inapplicable to it the Despatch in question was, it may here be recorded as additional and most conclusive evidence, that Mr. Ryland's succession to the Clerkship of the Council had been assented to by the then Secretary of State, Lord Glenelg, in 1836. See Lord Gosford's Despatch, in reply, dated 9th August, 1836. This may account for Lord Durham not having reported the appointment, inasmuch as the previous assent of the Secretary of State having been obtained, and the matter left to be settled by Her Majesty's Lord High Commissioner, it was unnecessary to report to the Colonial Office, particularly as the Commission granted to Mr. Ryland was precisely similar to that which had been given to his predecessor, who never had a Mandamus from Home.

Mr. Ryland appears to be under the impression that his consent was in some measure necessary to the organization of the Department of the Executive Council, and to the disallowance of the fees, and reduction of the emoluments of the Office of Clerk after the Union, but in this he is altogether mistaken; his right to take fees after the Union was never admitted, nor the emolument of the office fixed while he remained there; and if the facts were otherwise, alterations would have been made without reference to his opinion or consent. Had Mr. Ryland remained as Clerk of the Council, his salary would not have been higher than £400 sterling per annum, until afterwards increased to £600 currency, as it was to his successor. The allowance made on account of fees was purely gratuitous and

It is of little consequence whether an Officer is paid by fees or salary; they are both equally emoluments of office. Though Mr. Ryland voluntarily surrendered his right to fees, which he might under the Ordinance then in force, have continued to exact from that portion of the Province called Lower Canada, yet, the emoluments of his Office never were reduced; whether, had he continued to retain the Office, they might have been reduced, is very problematical. The compensa-

temporary, and could not have been continued to him, had he remained. He, therefore, did not lose an office worth £1030 per annum, for he never had that income from the office after the Union, and had no right to expect it, for it was out of all proportion with the salaries assigned to the higher officers of the Government. He had no claim to retire upon a Pension if the Government could find him an employment which it thought a just and adequate provision. The appointment of Registrar at Quebec was supposed to be such an employment, and probably would have been more than equal to Mr. Ryland's just claims to a provision, had the Ordinance remained unaltered by the Legislature.

As the Governor General intended the office in lieu of a Pension, it would be hard upon Mr. Ryland if, when that office turned out to be unprofitable, the Pension should be withheld, but he has been allowed a Pension as if he had received no new office; and as the agreement of Lord Sydenham cannot be recognized as binding upon the Government, the utmost that can be done by the present Advisers of Your Excellency is to take up his case as that of an officer retiring at the Union, and to consider whether he should be allowed more than the sum assigned him by Lord Stanley. Considering the case in this light the Committee think, him not entitled, as a retiring officer, to any further provision, and they cannot advise that any other be made for him through this Government.

According to the Report of the Committee of the late Council, the office of Registrar of Quebec, held by Mr. Ryland, ought not to have been a losing one if conducted with due eco-

tion granted to him was at the rate at which he had been accustomed to be remunerated. He therefore did lose an office of £1,030, the best proof of which is Lord Sydenham's official admission thereof, and Mr. Ryland's qualified acceptance of the Registrarship of Quebec, is a proof that he would not have claimed a pension, had other adequate provision been made for him.

It is of His Lordship that Mr. Ryland complains. It is clear that he was entitled at the Union to retire on a Pension of £515 per annum, upon the scale which was applied to other retiring Officers, particularly the Grand Voyer of Quebec, whose income was entirely derived from fees. But if his case were now to be taken up as an Officer retiring at the Union, he would be entitled to seven years' arrears of income, with interest, at the rate of £1,030 per annum, and compensation for all losses, consequent on the act of the Representative of the Crown, by which he had been inveigled into the ruinous arrangement of which he now complains.

mony and a proper degree of personal performance of its duties. According to Mr. Ryland's statements, it has actually been a loss to him; but the Committee are not of opinion that this question should be considered, with reference to Lord Sydenham's guarantee, further than as before stated, that is to say, the office should not be considered as a provision in lieu of a Pension, unless, with due economy and exertion, it was in reality capable of benefitting the officer, as much as the Pension would have done. On this subject the Committee remark that Mr. Ryland's Pension of £111 2s. 2d. appears to have been discontinued on the 30th June, 1845, when he accepted the office of Registrar of Montreal. That office probably is or may be a more lucrative one than the Registrar of Quebec; but whether it is sufficiently so to justify the withdrawal of the Pension, the Committee are unable to say without further investigation, and they, therefore, respectfully recommend this question to be kept open until an examination be made of the office, with a view to placing it in a proper state of efficiency, when this point may conveniently be made a subject of enquiry.

As regards the office of Registrar in both places, and the emoluments derived by Mr. Ryland from them, the Committee think that he stands in precisely the same situation as other Registrars. He has the emoluments which the Legislature thought fit to assign to the office, and while the Committee are desirous that Mr. Ryland should not forfeit the allowance to which he could have claim by reason of his holding an office not sufficiently remunerative, they cannot advise a Pension, in itself sufficient, to be increased, because the officer is disappointed in the emoluments of a new office.

Mr. Ryland appears to suffer in his income because of the condition in which his predecessor left the office at Montreal. On this subject the Committee think that measures should be taken to place the office in order, not at Mr. Ryland's expense; but as they consider this subject as wholly disconnected with Mr. Ryland's claims, they prefer making it a subject of a separate investigation and Report.

Mr. Ryland complains of the fees of the Office of Registrar not being proportionable to the expense, responsibility and labour of the office, but this again is a subject not connected with Mr. Ryland's claim; he is not required to remain in an office with remuneration attached with which he is not satisfied, and if alterations should be made in the law, they cannot be framed with a view to his peculiar interest or expectations.

There can be no doubt but that Mr. Ryland has been most unfortunate in continuing to insist upon Lord Sydenham's agreement, after he was distinctly informed that it was not one which the Government thought could be laid before Parliament with success. That answer he should have considered sufficiently final to have prevented his continuing to calculate upon the fulfilment of the undertaking. And it is not because he misapprehended the agreement, or the powers of the Executive Government, or Governor General, to make agreements of the nature which he understands this one to be, that this Government are to enter into a question of indemnifying him. It is not surprising that, understanding, as he appears to do, his right to a situation worth £1030 a year, is indefeasible and independent of the Government and Legislature, he should feel strongly his right to be indem-

These remarks could only be hazarded by persons standing towards Mr. Ryland, in the double and incompatible relation of debtors and judges. In private life, such disclaimers are not unknown, but Courts of Justice are open to creditors. In the

nified for the loss of that income by an arrangement not carried out; but the Committee, knowing that he had no such right, thinking that the Pension assigned to him was all that he could justly claim, and believing that the agreement of Lord Sydenham, to keep up the income of an office to a certain sum, for all future time, during the life of Mr. Ryland, was one which His Lordship was not competent to make, so as to bind the Government and Legislature of this Province, they continue in the opinion which those of them in the Government under Sir Charles Bagot had occasion to express to His Excellency, and which the gentlemen who succeeded them in office appear to have entertained, that Mr. Ryland's claim, for indemnity for the loss of the Office of Clerk of the Council, or for the non-fulfilment of Lord Sydenham's guarantee, is not one which they can advise Your Excellency to lay before the Provincial Assembly, with a recommendation for a grant of money, a grant of which, if recommended upon Mr. Ryland's claim, would, in their apprehension, establish a false and unconstitutional principle, and possibly create a danger of misunderstanding and disagreement, which no feeling for individual disappointment or misfortune could justify them in incurring.

Certified,

(Signed,) J. JOSEPH,
C. E. C.

(True Copy.)

ET. PARENT,

Asst. Sec.

present case, Mr. Ryland must be content to reason and to supplicate, for his debtors are his judges. Their wonder that he should not have yielded in perfect despair, is not entirely devoid of interest, but as they reason in a circle, it is unnecessary to follow them further. Lord Metcalfe's sense of justice, as embodied in his memorandum, hereinbefore quoted, seems to be a full and sufficient answer.

This case may be summed up in a very few words. The writers of the foregoing Report, knowing that if Mr. Ryland had held office, he would be entitled to compensation, have laboured to shew that he was not duly commissioned. But if he had not been commissioned, would he have been requested to surrender—would he have been offered and promised a consideration for surrendering—would five several Governors—would the Assembly—would the Secretary of State—have acknowledged his claim? Would it have been necessary for the Secretary of State, to refer him for payment to the Colonial Assembly?—and, finally, would the latter have insisted on his being paid by the Imperial Treasury?

The Council ground a great part of their arguments on the alleged insufficiency of Lord Sydenham's authority to enter into the arrangements with Mr. Ryland, of which that gentleman now claims the fulfilment. On this head, as well as regards the responsibility of the power which his Lordship represented, it may be here stated, that when a party gives a general Power of Attorney to another, to act as an Agent beyond the seas, as was the case with Lord Sydenham, when he was deputed by the Imperial Government to effect the Union of the Canadas, unless the Power of Attorney is accompanied by specific instructions, (for implied ones are not recognized,) the principal is bound by all the acts of his agent, however ruinous they may be to him. In Mr. Ryland's case, the Power of Attorney from the Crown was accompanied by a specific instruction, in the shape of a letter from Lord John Russell, the Secretary, desiring that Mr. Ryland should not be disturbed in the possession of his office. Thus principal and agent, by their mutual acts, became liable. In the correspondence on this case it will be seen that Lord Durham was not called upon to report Mr. Ryland's appointment, inasmuch as it had previously been sanctioned by the Secretary of State, Lord Glenelg, in 1836. Had it however been otherwise, it must be admitted that Lord John Russell, as Secretary of State, was vested with powers equal at least to those of his predecessor, Lord Normanby, and in giving effect to an

Act of the Imperial Government, granting a new Constitution to the Canadas, he and his agent were the sole judges of the possibility of continuing an officer's services. In Mr. Ryland's case, accordingly, the possibility was allowed, and his right to be continued in office, or to retire on a pension of £515 per annum, distinctly and officially admitted and confirmed. The claims arising out of the contract subsequently entered into by Lord Sydenham, have also been admitted on both sides of the Atlantic, yet on both sides it is said we are not the party liable; but if the Government, on one side and the other, is still the Government of the Crown, (as it is presumed to be as yet,) it is worse than nonsense to tell Mr. Ryland, that he has a just claim between the two, and that neither party, nor both together, are bound to meet it. The Crown, by the act of its Agent, became responsible for the debt, and having recently, through its organ the present Secretary of State, Earl Grey, given a Confession of Judgment, as to the nature of the remuneration to which Mr. Ryland is entitled, it is bound by every principle of justice and honour, to see him fully compensated and satisfied.

